A

SUMMARY

OF

THE TRIAL

The King *v.* S. F. Waddington,

For purchasing Hops at Worcester.

ALSO

THE PROCEEDINGS

OF THE

COURT OF KING'S BENCH,

When the Rule was granted;

WITH NOTES BY THE DEFENDANT.

THE PREFACE

Dedicated to the Right Hon. Wm. Pitt,

The profeſſed Protector of Britiſh Commerce.

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1800.

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OF

THE TRIAL,

The King v. Sir J. Wedderburn,

For Publishing Libels at Worcester,

AND

THE PROCEEDINGS

OF THE

COURT OF KING'S BENCH,

WITH NOTES AND OBSERVATIONS.

DEDICATED TO THE PRETENCE.

Dedicated to the Right Hon. Wm. Pitt.

The profligate Protector of Public Clamours.

44
3 29
42

PREFACE.

Dedicated to the Right Hon. W. Pitt,

PRIME MINISTER OF GREAT BRITAIN,

&c. &c.

TO you, Sir, who can boaſt of having enjoyed, for a long period of time, the confidence of the majority of a powerful nation; who poſſeſs tranſcendent talents, which may preſerve our internal tranquility, and reſtore to us the principles of the Britiſh Conſtitution; or, which qualify you to be, in the hand of Providence, the greateſt revolutioniſt in Europe—I humbly dedicate the proceedings, in a cauſe, which, under all circumſtances, augurs to be one of the moſt important to commercial men, that the courts of this country have lately exhibited to the world.

You have, on every occaſion, diſplayed your protection, and exulted in the extenſion of thoſe

grand ſources of Britiſh power—the trade and commerce of theſe kingdoms. Shall not agriculture, then, have its claim upon you? I boldly aſſert, and no one can contradict me, that in the culture of that commodity, for the purchaſing of which, I have been proſecuted, upwards of £400,000. per annum, was loſt in the aggregate, and that the produce of the laſt three years, has not been equal to one half of the demand!—— Will you then not heſitate—Will not the executive power pauſe—before individuals, who have promoted the intereſts of the Britiſh agriculturaliſt, ſhall be diſgraced and branded with public infamy?

If I were ſubmitting to the public, a caſe, which affected me only as an individual, I might, indeed, be accuſed of arrogance and preſumption. The preſent, however, is not a private, but a public concern; and it is truſted, that every impartial reader will find himſelf intereſted in the unprecedented event of this trial. So great a change has, of late, taken place in the freedom of commerce, and ſuch unheard of reſtrictions have been impoſed upon buyers and ſellers, that, to the commercial world in general, the verdict given at Worceſter againſt me, muſt be peculiarly intereſting.

They will here ſee, how far the courts of juſtice can take cognizance of a fair and open trade. Whether

Whether the verdict has protected the liberty of the ſubject—Whether it has benefited the trading intereſt—they will be the beſt judges. I am, however, well aware, that the popular clamour, urged by the charges of the judges, is raiſed indiſcriminately againſt all, who are branded with the names of foreſtallers and regraters.

Whether it be politic for the courts of juſtice to interfere in univerſal uſages of commerce; whether it be conſiſtent with law or equity, to work up the minds of the people to a ſtate of frenzy—to promote diſguſt for one of the moſt uſeful bodies in the ſtate—the middle men; may well be doubted. Such ſpeculations as theſe, however, are vain and uſeleſs. We muſt conform and be amenable to the laws as they exiſt, whether on the Statute Book or otherwiſe.

Unconſcious of having broken any known law of the realm, I have added but a few remarks to guide the judgment of the public, to ſome particular points in the caſe. I muſt unwillingly expreſs my deep concern, that the courts ſhould have thus wandered into the wilderneſs of commerce, which preſents not even one beaten, though ſolitary path! That expanſive, yet fertile field, has, heretofore, conveyed its treaſure gladly into the Britiſh coffer, nor, ere

theſe times, dare any rude hand preſume to ſtay the exuberant harveſt! —

To ſhew that no known law has been offended againſt, it might be ſufficient to ſtate, that no inſtance has been produced, on this trial, where a ſingle reſtriction of dealing in hops, is recorded, or where a puniſhment has been inflicted on any perſon for the offence imputed to us. If the legal tranſactions, relative to hops, be traced through two centuries paſt, whether they were conſidered as an wholeſome or a pernicious ingredient (for it will be found that, in the latter end of the laſt century, an act of parliament prohibited them, as a "pernicious weed"), no notice has ever been taken by the legiſlature, or the courts, of any tranſaction by any individual, although the ſame circumſtances have occurred, and nearly the ſame language uſed, and mode of purchaſing adopted, as has here been the ſubject of a proſecution.

Suppoſe that, by common law, hops are conſidered as a neceſſary article of life; I muſt beg to obſerve that the common law, if it is ſuffered to embrace objects not named in the ſtatute law, may annihilate, even the property, and deſtroy for ever the peace of an humble individual, whilſt that individual is completely in the dark, unlearned, as he probably is, in the manœuvres of the law.

In

In 1798, I embarked in this commerce: I well knew that the planters of hops had been, for many years, diſpoſing of their commodity under prime coſt. That they were in a moſt diſtreſſed ſituation —That a fair, perhaps an handſome profit might accrue, and, at the ſame time, important ſervices rendered to the public. I was not inſenſible of the difficulties other men had found, when they interfered in a buſineſs, which has long been conducted (we hope honourably) by a few individuals, called Factors, in Southwark, and Merchants in Worceſter, and who have ſyſtematically re-ſold the commodity, many times on the ſame day.

For my conduct, in this adventurous commerce, was I tried and found guilty at Worceſter; and, under theſe circumſtances, do I now appeal to the public as a judge, to decide between me and the jury.

The trial by jury, we all acknowledge to be the beſt and greateſt of our privileges; but, that a judge may be partial, a jury be prejudiced and inattentive to their duty, no one will deny. That this has been the caſe in this trial, it does not become me to aſſert. The jury were, indeed, forbidden to decide upon the law; that is, whether the facts ſtated in the indictment conſtituted an offence or not: ſtill, however, they were at liberty to decide upon the facts themſelves; they did ſo, and gave

a GENERAL verdict of GUILTY. One thing I will aſſert, which I challenge any one to refute, viz. —that upon ſome parts of the charges, there was no evidence, of any deſcription, from which any concluſions could be drawn.

My defence ſhall be, the juſtice of my caſe. Whether the charges, ſtated in the indictment, be proved, and whether theſe facts amount to an offence in point of law, you Sir, and the public, to whom the trial is now ſubmitted, are ſolemnly to determine.

To ſuch deciſion I look forward, and, with confidence ſay,—that I ſhall be acquitted.

BRITISH MUSEUM

S. F. Waddington.

Maidſtone, 1ſt November, 1800.

The King v. Waddington.

COURT OF KING'S BENCH,

MAY 16th, 1800.

MR. ERSKINE.—My Lords, I am to apply humbly to the Court for a rule to ſhew cauſe why a criminal information ſhould not be filed againſt Samuel F. Waddington. My Lords, in Hilary Term, I obtained a rule againſt this Gentleman, for an information *for buying hops to ſell again**—hops growing in the County of Kent. I

* CAN any thing be more calculated to fetter, or rather to deſtroy THE FREE PRINCIPLE OF COMMERCE IN A FREE COUNTRY, than a criminal information being filed againſt a perſon, "FOR BUYING AN ARTICLE TO SELL AGAIN!!!" Such, however, is the ground on which the learned counſel *acknowledges* that he obtained the rule for the defendant's firſt proſecution. And, in truth, it was no more. Purchaſing an article to ſell again, upon the principle of an uſage, *time immemorial* in this country, was the only OFFENCE he was GUILTY of. *What is to be the puniſhment of ſuch miſdemeanors?*

ſtated

ſtated that caſe with abundant moderation *, meaning to interpoſe for the protection of the public againſt the conſequences of ſuch offences, but without meaning to infringe againſt the moral character of the gentleman againſt whom I moved. I then ſtated, that, as all the ſtatutes on this ſubject were repealed †, perſons might ſuppoſe, that the common law went along with them, and that Mr. Waddington might have done that act without conceiving, that he was offending againſt the law. My Lords, I am very ſorry, that what now lies before me on the ſubject of this application, does not fall in altogether with that ſtatement. I am ſorry, that after the firſt rule was granted by the court, and after ſuffering it to be abſolute by default, he ſhould have ſubjected himſelf to ſuch a ſtatement as I am about to make, and which I am diſpoſed that you ſhould deal with, as you ſee proper,

* Few people will give Mr. Erſkine credit for the *abundant moderation* he boaſts of, who peruſe the proceedings in the Court of King's Bench, the 8th of February, 1800, when, amongſt other charges, he aſſerted, that Mr. W——, and his agents, went like LOCUSTS in a direct courſe, *ſweeping away the whole growth of the country!* An aſſertion as void of "*moderation*" as of truth. For behold, he purchaſed "to the amount of £22,000. only," (ſee Erſkine's Speech the 8th of Feb.) and which was, in fact, but about the 100th part of the growth of the kingdom!

† Little did the two houſes of parliament think, when they *unanimouſly* repealed theſe ſtatutes, "as injurious to the liberty of the ſubject:" 12 Geo. III. that 31 years afterwards, proſecutions for theſe *ſuppoſed* offences, would have been inſtituted. Had they known that the courts of juſtice could produce the ſame effects with or without theſe laws, they would hardly have given themſelves the trouble of repealing them.

which

which you ſhould diſmiſs if it is unfounded. I am not going to ſtate any contracts for hops growing on the poles. But as hops are *now* * conſidered as proviſions, and matters of neceſſity, I pray your Lordſhips for a moment to ſuppoſe, that I am not ſpeaking of hops, but of corn, and then ſee how eaſy it is to apply what is done in one inſtance, to another, and then ſay, what is to become of the people of this country? But, even independant of that circumſtance, this caſe comes home to the feelings of every man.

I ſhall now ſtate the ſubſtance of the affidavit upon which this application to the court is founded. William Penn ſays, that he is a clerk to Thomas Hodges, who is a dealer in hops at Worceſter. On Saturday, the 29th of March laſt, this deponent was in the Hop-Market at Worceſter, when he heard Mr. Waddington addreſs a large body of hop-planters and dealers in hops, that ſurrounded him. He informed them, that his adviſe to them, was not to ſell their hops at the then low price of £11. per cwt. He then told the planters and dealers,

* It is indeed a novel matter, to conſider hops as a *neceſſary of life*. Such a notion, we believe, was never broached, till on the 8th of February, 1800, and then only Mr. Erſkine aſſerted it. The uſe which Mr. Erſkine here makes of this deciſion, is curious. Fearful that he had not ſufficiently explained the ſuppoſed offence, he deſires their lordſhip's to conſider the advanced price of hops as *equally* injurious to the public as that of CORN. Since they are now *both* conſidered NECESSARIES OF LIFE!—Admirable logic indeed!—He might as well have continued his compariſons, and deſcribed a ſcarcity of *cheeſe* or *oatmeal* in the ſame lamentable and piteous ſtrain, as a ſcarcity of *water*. We agree however with Mr. Erſkine, that ſuch an unjuſt application "*comes home to the feelings of every Engliſhman.*"

ſo

ſo ſurrounding him, that it was their own fault if they did not raiſe the price of hops to £20. per cwt. that the preſent ſtock of hops was nearly exhauſted, and that the Brewers muſt come to them long before hops could come to market, and that they might depend on his exertions, to endeavour to keep up the price.

That was not all.—On Saturday, the 19th of April laſt, this deponent ſays, he followed Mr. Waddington into a warehouſe, belonging to Meſſrs. Yarranton and Philips, who are Hop-merchants at Worceſter, and, after having got upon a *ſack of clover-ſeed*, he addreſſed a number of Hop-planters. He ſaid, he was ſorry it was not in his power then to purchaſe ſuch a quantity as he could wiſh, but he would then purchaſe 200 pockets at £12. 10s. per cwt. 200 pockets that day fortnight, at £13. 200 pockets more, in a fortnight after that, at £13. 10s. 200 pockets more, in a fortnight after that, at £14. and 200 pockets more, in a fortnight after that, at £15. per cwt. He then took a paper out of his pocket, and told them to enter their reſpective names, according to the terms of their reſpective agreements with him. And it appears, that, on the 29th of March, he told them the low price of hops was occaſioned by the proſecution, that had been inſtituted againſt him, but that he could aſſure them, from high authority, it was dropped, and that the price of hops would riſe.

Now, my Lords, the queſtion for your Lordſhip's conſideration is, whether theſe acts, put as facts upon the record, conſtitute a miſdemeanor. My Lords, I ——

Lord Kenyon, interrupting him *—Mr. Erſkine, you need not argue it. *I will not ſay poſitively what the effects*

* Conſidering that there was no caſe on record, in which buying hops was made criminal, one might have ſuppoſed that the matter required a *little* further diſcuſſion.

may be; but this I know, that it is a queſtion in which the public are mightily concerned. And it is very fit, whether it conſtitutes an offence or not, that it ſhould be put in a ſituation in which the DERNIER RESORT may decide upon it*. And, therefore, we are bound to grant the rule.

It has been ſaid, that people have no more reaſon to fear foreſtalling, engroſſing, and regrating, than they have to fear witchcraft. It is eaſy for a man to write a treatiſe in his cloſet; but if he would go to the diſtance of 200 miles from London, and were to obſerve people at every avenue of a country town, buying up *butter, cheeſe, and all the neceſſaries of life* they can lay hold of, in order to prevent them from coming to market (which has happened to my knowledge), he would find, that his is ſomething more real, and ſubſtantial, than the † crime

* This moſt alarming obſervation reminds us of what Mr. Burke ſays, in his two letters on a regicide peace.—"The higheſt tribunal of all, could aſſume a dignity and *efficiency*, which might enforce or regulate,—or, *if the caſe required it*, MIGHT SUPPLY THE WANT OF EVERY OTHER COURT."

† The opinion which the chief juſtice here alludes to, is that of Dr. Adam Smith, who, in his excellent work on the *Nature and Cauſes of the Wealth of Nations*. (In which the principles of commerce are diſcuſſed with admirable impartiality and diſcernment)—thus expreſſes himſelf:—"The popular fear of engroſſing and foreſtalling MAY BE COMPARED TO THE POPULAR TERRORS AND SUSPICIONS OF WITCHCRAFT." The unfortunate wretches accuſed of the latter crime, were not more innocent of the misfortunes imputed to them, than thoſe who are accuſed of the former. The law which put an end to all proſecutions againſt witchcraft, which put it out of

crime of witchcraft The country ſuffers moſt grievouſly by it.

Rule granted to ſhew cauſe why an information, &c*.

of any man's power to gratify his own malice, by accuſing his neighbour of that imaginary crime, ſeems effectually to have put an end to thoſe fears and ſuſpicions, by taking away the great cauſe which encouraged and ſupported them. The law which ſhould reſtore entire freedom to the inland trade of corn, would probably prove as effectual to put an end to the popular fears of engroſſing and foreſtalling." Vol. II. p. 309.—That there is ſome ground for this opinion, no man who reads the abovementioned work will deny.

* Note.—The defendant ſo little expected that the Court would ſeriouſly take cognizance of commerce, that he declined pleading to the rule; ſo a trial was ſoon afterwards granted by the Court.

The King againſt Waddington.

THIS cauſe was tried at the Summer Aſſizes for the City of Worceſter, before Mr. Juſtice Le Blanc, and the following ſpecial jury.

James Hickman, Gent.	Foreman
Thomas Carden, Sen.	Glover
John Wheeley,	Wine-Merchant
Richard Rowlands,	Glover
John Foreſt,	Draper
Herbert Rogers,	Malſter
Martin Barr,	Chinaman
Thomas Williams,	Druggiſt
Robert Vellars,	Silk-mercer
Robert Chamberlain,	Chinaman
Thomas Morris,	Builder
Samuel Blackwell,	Saleſman.

Counſel for the Crown.	*Counſel for the Defendant.*
Mr. Plomer	Mr. Dauncey
Mills	Wigley
Manley	Peake
Dowding	Solicitor, Mr. Elſtob
Scott	
Solicitor, Meſſrs. Weſton	

INFORMATION.

1ſt COUNT.—Accuſes the defendant with wickedly intending *to enhance the price of hops, and ſpreading divers rumours and reports with reſpect to hops,* by then and there (meaning

(meaning in the City of Worceſter, on the 29th March, 1800), openly and wickedly, in the preſence and hearing of divers hop-planters and dealers, in the ſame City, *aſſerting, declaring, and publiſhing, that the then preſent ſtock of hops was nearly exhauſted, and that from that time there ſoon would be a ſcarcity of hops, and that before the hops then growing could be brought to market, the then preſent ſtock of hops would be exhauſted*; *with intent and deſign, by ſuch rumours and reports*, to perſuade and induce divers perſons, then preſent, being dealers in hops, and accuſtomed to ſell hops, and *having large quantities for ſale, not to carry or ſend, to any market or fair*, any hops for ſale, and to abſtain from ſelling ſuch hops *for a long time*, and thereby greatly to enhance the price of hops, in contempt of our ſaid Lord the King, &c.

2d Count, ſimilar to the firſt.

3d Count, That the defendant did unlawfully endeavor to promote and enhance the price of Hops, *by perſuading*, and attempting to perſuade, divers perſons dealing in hops, and accuſtomed to ſell hops; and, having large quantities for ſale, not to go to any market or fair with any hops for ſale, and to abſtain from ſelling ſuch hops for a long time, &c.

4th Count, Accuſes the defendant with *unlawfully engroſſing*, and getting into his hands, on ſuch 29th day of March, and on divers other days and times, between that day, and the day of exhibiting the information, *a large quantity of hops*, to wit, 100 pockets of one Wm. Green, 100 pockets of one John Bedford, &c. &c. &c. *at certain large prices*, that is to ſay, at and after the price of £15. per cwt. *with intent to reſell the ſaid hops*, to be by him bought for an UNREASONABLE PROFIT, and thereby to enhance the price of hops, in contempt, &c.

5th, 6th, 7th, 8th, and 9th Counts, ſimilar to the 4th.

To

To theſe charges the defendant pleaded not guilty.

Mr. *Plomer* * began his addreſs to the Gentlemen of the Jury with ſtating, that the Information, which had been juſt read to them, charged the Defendant with a miſdemeanor of no common magnitude; and that in the outſet of the buſineſs he could not help obſerving, that the queſtion, in every point of view, was of the greateſt importance. It was ſo to the Defendant; and if he could by fair evidence, vindicate himſelf againſt the heavy charges made againſt him, *thoſe who were engaged in the Proſecution would rejoice extremely in the event of his acquittal.* But, on the other hand, if the charges contained in that information turned out to be well-founded in point of fact, it was certainly of the laſt importance to the Public that the law on that ſubject ſhould no longer remain in the ſmalleſt ſtate of doubt; and that the event of that Proſecution, which was moſt anxiouſly looked for by the people in every part of the kingdom, ſhould remove every doubt from the mind of every man who entertained any doubts on the ſubject. By the Common Law, it was an offence of great and heavy magnitude, as it reſpected this or any other article, which conſtituted a neceſſary of life. *As to the law on the ſubject, it was perfectly clear,*

* I AM extremely ſorry, that it is not in my power to lay before the public, the original ſpeech of this gentleman, as taken in ſhort-hand in court; I have not been able to procure the copy. I muſt therefore confine myſelf to a brief abſtract of this curious harangue, as given in a reſpectable morning paper. I muſt alſo apologiſe for not giving the preciſe interrogatory form of the evidence: But theſe are the *only* documents not furniſhed by the ſhort-hand writer. This loſs, however, will not be ſo much felt, as the Judge, in his charge, gives the whole detail at full length.

and no poſſible doubt could be entertained on it. The offence charged againſt this Defendant had ever been conſidered as a ſerious miſdemeanor by the Common Law of the Land, * which was the beſt ſyſtem of laws, he believed, the wiſdom of man had ever framed for the protection and ſecurity of every thing that was dear and valuable in ſociety. However ſpeculative men in their cloſets might think on the ſubject, † the Law of the Land was certain. It had been ſettled by the wiſdom of our anceſtors, and the only conſideration for the Jury was, whether Mr. W. had brought himſelf within the intent and meaning of it. The learned Counſel here ſtated, with great clearneſs and perſpicuity, the nature of the charge againſt Mr. W. and the law on the ſubject, as it is laid down in the 3d Inſtitute, cap. 25, and by Hawkins, in his Pleas of the Crown, under the Heads of Foreſtalling, Engroſſing, &c. But, ſaid he, if any doubt ſhould be entertained on the Law, and the verdict of the Jury ſhould be unfavourable to the Defendant, that would not

* Can a Lawyer be ſo totally ignorant of the merits of the cauſe he is to ſupport, as to aſſert, that intending to raiſe the price of hops has ever been conſidered as a miſdemeanor at *Common Law?* Does he mean to ſay, that the *Common Law*, which was ſo many ages antecedent to the firſt cultivation of hops in this country, ever took cognizance of the Hop-Market? Or, is he availing himſelf of the ſame honeſt ſtratagem as Mr. Erſkine, who, availing himſelf of the Court of King's Bench having allowed hops to be conſidered as a *neceſſary of life*, repreſented corn and hops as equally neceſſary for the ſupport of the country, and therefore inferred, that enhancing the price of hops and of corn, was one and the ſame offence.

† Here the learned counſel affects a ſneer at the ſpeculations of Dr. Adam Smith, and why?—Lord Kenyon had done it before him.

preclude

preclude him from taking advantage of it, as every thing would appear on the Record, and every doubt and queſtion might hereafter be diſcuſſed before the higheſt Court, out of which this Proſecution iſſued. This he ſtated, that the Gentlemen of the Jury might leave it altogether out of their conſideration, and confine their attention to the facts of the caſe. Having ſtated to the Jury the Law upon the ſubject, and the nature of the charges, the learned Counſel ſaid, he ſhould proceed next to ſtate the evidence, which he had to adduce in ſupport of thoſe charges; and the Jury, after they had heard it, and any evidence Mr. W. might be able to give in anſwer to it, would have to pronounce whether the charges were made out in point of fact or not. Mr. *Plomer* firſt ſtated to the Jury the evidence he ſhould produce in ſupport of the firſt charge. He ſhould prove that Mr. W. who was a ſtranger until very lately at Worceſter, came there on the 29th of March laſt. For what purpoſe he came, they would ſuſpect from what he did when he was there, and from what he declared was his purpoſe to thoſe who were in his confidence. At that time he ſhould prove Mr. W. was the poſſeſſor of a very conſiderable quantity of hops, which he had purchaſed in other places, though that did not conſtitute the ſubject of their preſent conſideration. At that period, and for ſome litttle time before, at Worceſter, there was what was called a falling market. The price of hops did not keep up for various cauſes, either from the proſpect of the enſuing crop, which was certainly then very remote, or becauſe there were more hops in the market than were ſufficient to anſwer the current demand. Mr. W's intention, therefore, was to perſuade the Planters to withdraw their hops from the market, in order to enhance the price; or, to uſe his own words, "to give a fillip to the marke." That intention he communicated

to Meſſrs. Yarranton and Phillips, who are Hop-merchants at Worceſter, and who were employed as his Agents. He declared to them that ſuch was his purpoſe, and gave them a friendly hint to make their purchaſes before he made his appearance in the market. That was pretty ſtrong to ſhew with what intention he came into the market. What does he do when he comes into the market? After having publicly invited all the Hop-planters to a dinner, diſcriminating that claſs of perſons who had an intereſt with himſelf to raiſe the price of hops; after having given them that invitation, which produced a meeting of 97 perſons, he made a public addreſs to all the people aſſembled at the market. He there recommended to the Planters not to ſell their hops at the then low price of the market; that by keeping them out of the market for ſome time, they would obtain much more money, and that it was their own fault if they did not advance the price of hops to 20l. per cwt. the price at that time being from 10l. or 11l. to 12l. according to the goodneſs of the article. *The preſent ſtock, he ſaid, was nearly exhauſted*, and the brewers muſt come to them long before new hops could come to market; and that the Hop-planters might depend upon his exertions to keep up the price of hops. But if any of them were alarmed, and were deſirous of ſelling, he was a Buyer—not a Buyer for any other purpoſe but to quiet the alarms and fears of others, or to enable them to co-operate in his general plan. His firſt plan was to keep the commodity out of the market entirely; but, if he could not do that, with reſpect to ſome who inſiſted on ſelling, he held himſelf out to them as a Buyer; and, on that ſubject, he made good his words; for to thoſe who were not convinced by his arguments, he became a Buyer at that market, of no leſs than 300 pockets of hops, and at an advanced price

of

of 30s. per cwt. ſo that he was determined at all events to enhance the price by the wealth of his own purſe, when his arguments failed to produce the deſired effect. If any perſon was a buyer in the ordinary courſe of buſineſs, he did not uſe every argument to raiſe the price of that commodity which he wanted to purchaſe. There was another circumſtance to which he requeſted the particular attention of the Jury. He told the Planters, that the then low price of hops was owing to a proſecution that had been inſtituted againſt him; and that, at the very moment when that proſecution was hanging over this Defendant's head, he had the daring inſolence to come to this place, and, in defiance of the law, and of the Tribunal before whom the proſecution was depending, came to that market, and publicly and falſely declared to the people reſpecting that proſecution, that he could ſtate to them, from very high authority, that ſuch proſecution was dropped, and that it would not proceed farther againſt him, and conſequently that the price of hops would riſe. So that they were to riſe and fall with the ſafety, or the puniſhment of Mr. Waddington. That declaration was made in order to prevent any of the Hop-planters from being deterred, and to encourage them to co-operate with him in the execution of his general plan. The learned Counſel next followed Mr. Waddington to the Hop-Pole Inn, where, in conſequence of his invitation, 97 Hop-planters attended to dine with him, and his orders were, that none but Hop-planters ſhould be admitted, and a paper for that purpoſe was put over the door of the room. After dinner, one of the toaſts given by Mr. Waddington was, "Hops at 20l. per cwt." That toaſt was drank with rapture by every Hop-planter in the room.

This reminded him of a toaſt which was repreſented to be given by a perſon in a play "Succeſs to uſury." It

was rather extraordinary that a perſon, againſt whom a public proſecution was then pending, ſhould have ſo little ſenſe of public decorum—ſo little ſenſe of decency, and of ſhame, as to get up in the preſence of 97 perſons, who were concerned in the ſale of hops, and harangue them for the general purpoſes of enhancing the price, and inviting them to give effect to his plan. He told them, among other things, that till within the two laſt years, the hop-planters of England had not had a fair price for their hops; that the price in the Worceſter market was much below that in London; but it would be their own fault if they did not raiſe the price of hops to 20l. a cwt. and put Worceſter on a level with the London market *He knew the preſent ſtock of hops was nearly exhauſted*—that the brewers muſt ſoon come to them, and therefore he adviſed them to keep their hops back; that he was determined to be their friend, and that they ſhould not be obliged to ſell their hops for want of money. He repeatedly and ſtrongly recommended to them not to ſell their hops, but keep them back out of the market; but, if they would not take his advice, he would buy their hops, or build a warehouſe in Worceſter, large enough to hold all their hops, where they ſhould place them till the price was ſuch as to encourage them to ſell, and in the mean time that he would open a bank at the end of the warehouſe, where they ſhould be ſupplied. Theſe were the topics addreſſed publicly to a ſet of ſellers of that commodity. The jury would pronounce what was the intention with which he ſpoke and acted. Whether it was with an intention to enhance the price or not? That was the only queſtion they had to conſider. Now, ſuppoſe any perſon had the ſtrongeſt inclination in the world to enhance the price of that commodity, what other means—what other topics —what other arguments were likely to be more ſucceſsful,

ceſsful, and to produce a more powerful effect on the minds of the planters, than the arguments that were addreſſed to them by the defendant? The queſtion was, Whether he pronounced the words, and did the acts imputed to him; and what was his intent? That was the ſingle queſtion, and it was impoſſible to deny that his intention was to raiſe the price of hops to 20l. a cwt. That was his object, *becauſe he declared it.**

At the meeting at the Hop-Pole Inn, he intimated an intention of returning to Worceſter in the ſpace of three weeks, and he was as good as his word; for he returned on the 19th of April, to the great joy of the Hop-planters, who conſidered him as their public patron and friend; as their deliverer from the oppreſſion and bondage in which they were enſlaved; as a great public ſpirited man, who had no view to his own intereſt, but whoſe conduct and actions were all guided by the pureſt and moſt diſintereſted benevolence in favour of the poor Hop planters. His breaſt was totally unacquainted with *lucrum ſitiens vitioſum*. It was not to get ten or twenty thouſand pounds to himſelf. His views roſe infinitely ſuperior to all ſuch ſordid motives—It was to give relief to the poor, and to the diſtreſſed.

* It might have been ſuppoſed, that the Jury would not pay much attention to arguments, which the counſel knew he could not bring evidence to ſupport. Of this kind is his repeated aſſertions, that the defendant told the planters, *that the ſtock of hops was nearly exhauſted*. This is certainly laid in the information, but not proved by the evidence; and is a thing of ſo abſurd and improbable a nature, that it muſt be preſumed, in juſtice to the counſel's underſtanding, that he did not believe it himſelf. Next, he roundly aſſerts, that Mr. W. had declared, *it was his intention to raiſe the price of hops to £20. per cwt.* Can human *modeſty* go farther?—

The learned Counſel, with great abilities, ſtated the conduct of Mr. W. on the 19th of April, and 3d of May, which was extremely ſimilar to what it had been on the 29th of March. He alſo laid before the Jury the evidence by which he ſhould ſubſtantiate his ſtatement.

After the counſel had ſtated the *facts of the caſe, he told the Jury, that he ſhould unqueſtionably prove them by the teſtimony of reſpectable witneſſes, at that Bar.* Did Mr. W. come to Worceſter for the purpoſe imputed to him—to enhance the price of hops? That undoubtedly conſtituted an ingredient in every count in the information; and of that intention the Jury muſt be convinced, or they ought to acquit him. The ſingle great queſtion was, *quo animo*, he came to that place. If the Jury were convinced that his intention was to enhance the price of hops, there was no doubt but he was guilty of the charge imputed to him by the information; and what was the nature of this offence? The laws of England had branded the man who was guilty of it, as *pauperum depreſſor, & totius communitatis & patriæ publicus inimicus.* When a man abuſed his wealth to make others poor, that was the greateſt poſſible abuſe of wealth, which ought to be uſed for the good and benefit of the whole community? * What could we think of a man who made others

* It happens rather unfortunately for Mr. P. that, having but juſt before acknowledged the extreme joy of the hop-planters, in having found a friend and deliverer, he ſhould now brand the ſame perſon with the name of *pauperum depreſſor*, and ſuch abuſive apellations as enter into a ſertile head. He gives a ſufficient reaſon for conſidering the defendant in the favourable point of view, at which he affects to ſmile; he gives no reaſon why he merits

others poor in order to make himſelf rich, and by that means to accumulate the diſtreſſes of the community? If a man could commit that ſort of offence with impunity —if it was to be declared to be no offence, what was to become of the people of England with reſpect to every article of life—corn, meat, ſalt, coals, butter, cheeſe, &c.? The ſame practices might be purſued, and had been purſued, in every other neceſſary of life, by people who poſſeſſed large purſes. In that way the diſtreſſes of the poor might be accumulated to an infinite extent. Whoever was guilty of this offence, became the oppreſſor of the poor, and the public enemy of his country. It was abſolutely neceſſary, for the ſalvation of the community, to reſcue it from the bad paſſions of men, and to prevent them from abuſing that wealth which Providence had conferred upon them, for very different purpoſes. There never was a cauſe, to the reſult of which the public looked with more anxiety than the preſent. He did not, however, deſire them to ſtrain the evidence; but, if the facts were clearly and ſatisfactorily made out, the neceſſary reſult would be, however painful (it was a great duty they owed to their country), to pronounce this Gentleman guilty. He was perſuaded the offence would be proved to their moſt complete ſatisfaction, and if ſo, they would pronounce him guilty of every charge laid againſt him in the information.

merits abuſe. But let us ſee, who are the poor perſons whom Mr. W. is ſaid to have oppreſſed? Why the Brewers!!! It is loſs of time and paper to ſay more about this *modeſt* harangue.

MR.

MR. DAUNCEY's SPEECH FOR THE DEFENDANT.

Gentlemen of the Jury,

AFTER having been exhauſted by ſuch attention as it was my duty to pay to this caſe for eight long hours, I have a right to claim at your hands a little indulgence for myſelf, and alſo for the gentleman I repreſent. I have to ſolicit all your attention to a queſtion, which, though my friend, in his opening to you, ſtated to be *ſo clear, that no man can doubt of it*, he has employed EIGHT HOURS in endeavouring to convince you of it. This of itſelf ſeems capable of affording an inference directly contrary to that which he ſet out with; and you muſt infer, that ſo far from being ſo ſelf-evident, and ſo clear, that no one could doubt about it, it is a queſtion of great doubt, of great difficulty, and a queſtion, that requires all the evidence that can be ranſacked from every corner.*

Gentlemen, that it is a queſtion of great magnitude, and of great importance, I readily concede to my learned friend. But as it ſtrikes my mind, it is a queſtion in which I am not ſtanding here for Mr. W. as a private individual, but that in his name and perſon, I repreſent *all the trading intereſt in this kingdom*—a weight infinitely two heavy perhaps for me to ſupport. I ſtand here for a trading intereſt that has brought this country to the ſtate in which it is,—for a trading intereſt, which it has been the policy of

* There are ſeveral parts of the indictment, which no one perſon was bold enough to ſwear to; theſe, though they will occur to every attentive reader of the trial, ſhall be pointed out in future notes.

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the law to attend to and to favour *—for a trading intereſt, by which we exiſt as a nation. Whatever we are—whatever we ſhall be—every thing muſt ariſe from that ſource, of which the great point is *freedom of trade*, by which alone we are ſupported, and which my friend in this inſtance endeavours to check, conceiving (and which ought to be checked, if he is right in that conception) that freedom does not apply to this caſe; and that in this inſtance Mr. W. as an individual has broken the laws of his country. It does not ſtand there only. As far as he is concerned for the crime, of which he is accuſed, it is treated not as an error of judgment, not as a fault, which any fair trader might commit, but *as a crime of deep malignity*. Such is the charge, which he is to anſwer, and to anſwer becauſe he has done it openly, and in the face of all the

* As the lord chief juſtice has thought proper to quote *Dr. Adam Smith's Wealth of Nations*, relative to foreſtalling, &c. Another paſſage in the ſame book may be here quoted, at leaſt, as aptly as in the former inſtance.

"In all countries, where there is tolerable ſecurity, every man of common underſtanding will endeavour to employ whatever ſtock he can command, in procuring either preſent enjoyment, or future profit. If it is employed in procuring preſent enjoyment, it is a ſtock reſerved for immediate conſumption If it is employed in procuring future profit, it muſt procure this profit, either by ſtaying with him, or by going from him. In the one caſe, it is a fixed; in the other, a circulating capital. A man muſt be perfectly crazy, who, where there is tolerable ſecurity, does not employ all the ſtock which he commands, whether it be his own, or borrowed of the people, in ſome other of theſe three ways."—A. Smith, vol. I. p. 411. Whether the reſult of this trial has conduced to the advancement of this grand object, we leave the impartial public to judge!

world,

world, which no *guilty* man ever yet did. Was it ever heard, that a man with deep malignity in his mind, and with a determined purpoſe to contravene the laws of his country, went openly into the face of the ſun, and called round him a great number of perſons, who might afterwards be examined in a court of juſtice as witneſſes of his guilt: "Take notice, I am about to break the law,"—whether he has broken the law does not apply to this part of the queſtion. When he is charged with that deep malignity, his actions ſay that charge is unfounded. His actions ſay he was doing a thing he conceived he was juſtified in doing, ſuppoſing he did no more than come into a market-overt, and buy a quantity of that commodity for the purpoſe of ſelling it again, not to make an unreaſonable or extraordinary profit, but to ſell it in the ſame way in which the proſecutors of this information ſell it, and thoſe perſons who have been called againſt him to-day. It is no ſecret in this caſe *who the proſecutors are**. But the public have a right to ſee (no matter who they are), the public have a right to ſee this buſineſs examined and ſifted; the public, as repreſented by his lordſhip, have a right to ſee whether the party is guilty or not of the charge alledged againſt him by this information. Whatever may be the ſecret ſprings, and lurking motives, good, bad, or indifferent, of thoſe who bring forward this pro-

* It is notorious, that a *conſpiracy* exiſted, and does *ſtill* exiſt, and an *immenſe* ſubſcription has been entered into, for the purpoſe of ruining the defendant by whatever means. It may ſeem extraordinary what could urge men to ſuch infamous proceedings. *It was the interruption of their hitherto rapacious traffic*, and the viewing that trade which they had once completely engroſſed, conducted on a more liberal plan, by one, *not of their own cabal*.

ſecution,

ſecution, the public have a right to ſee it fully examined, and the defendant's guilt or innocence clearly aſcertained, I admit it, and I wiſh to treat the public with that reverence, which is due to them, on this, and all other occaſions. I dare ſay, whether ſuch laws ought to exiſt is ſo clear, that they that run may read. Or, on the contrary, whether the wiſdom of ſuch laws was doubtful? The wiſeſt and the greateſt ſtateſmen have doubted, *doubted* did I ſay? The wiſeſt heads have *diſapproved* of them, and it is to what they have ſaid and done on that head, that I wiſh to appeal.

Gentlemen, having ſaid to you then, that this is a queſtion of importance as affecting the public, and alſo from the manner in which it is put, as affecting the private character of Mr. W. let me aſk you, whether in a caſe where the public was concerned, it was neceſſary in a ſpeech of ſuch length, and ſuch ability, to inflame the minds of the people (who are in ſuch a ferment already) in order to obtain a verdict? A verdict you muſt give; but be it for me, or for my friend, that verdict will be improperly given, though on the right ſide, if paſſion or prejudice unite at all with it. I do not ſay "give your verdict to me." But give a right verdict on wrong motives, and you do not diſcharge your duty. Let no man among you think, that I ſuppoſe that will be the caſe. God forbid! But I am driven to make ſuch obſervations from the turn this cauſe has taken. My friend has been inſtructed to bring it forward, mixed with prejudice, and it is my duty to do away that prejudice. I am ſure this will meet with your attention, and you will aſſiſt me in freeing your own minds from prejudice. You do not know how it got in there; but you muſt endeavour to get rid of it. Gentlemen, in order to try this queſtion properly, you muſt try it cooly and diſpaſſionately. Was

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it neceſſary for my friend to ſtate to you what large burdens were borne by the public at large; what credit they had for the manner in which they had borne them; and then glancing indirectly, as if part of thoſe burdens had ariſen from ſomething Mr. W. had done, though what he did, in fact, had not the leaſt tendency towards it? Mr. W. has been deſcribed as *pauperum depreſſor*, &c. becauſe he has bought ſome hops. Is an article of that deſcription ſimilar to that to which it has been compared; and was it fit that it ſhould be ſo brought forward in the preſent ſituation of the country? Am I ſtanding in the ſituation of thoſe who, with much more abilities in other reſpects, defended men who had bought *corn*, and not *hops*, and ſold it again in leſs than half an hour afterwards in the ſame market, at a price greatly advanced, and ſo bereaved the poor of their earnings? Am I ſtanding here for a man of that deſcription? Gentlemen, I am not. That is a ſubject, therefore, which in fairneſs and candour ought not to weigh in your minds. You will recollect the poor have been ſupported by your own bounty. If that be ſo, you will free your minds from that, and ſay we will not mix any indignation in that cauſe, which ought not to take place in the cauſe.

Gentlemen, as to the *law* of the land upon the ſubject, my friend ſays there can be no poſſible doubt *, let us ſee

* The learned counſel, both for the proſecution and for the defendant, might have ſaved themſelves the trouble of diſcuſſing what the *law* was upon that ſubject, had they known, that the Judge would deny the Jury the right of conſidering the law at all; as will be ſeen by the Learned Judge's charge.

a little

a little what he ſtates the charges to be againſt us, and then let us ſee whether or not there is any doubt on the ſubject, in *law*, or fact: for if the facts you are to judge of. Let us ſee whether there are any doubts on the caſe. —He ſays, there are two charges againſt Mr. W. one of which is for endeavouring to enhance the price of hops. That is the main ingredient in this buſineſs. The firſt charge is, that by ſpreading rumours, and addreſſing arguments to the ſellers to withdraw their commodity from the market, he endeavoured to enhance the price.

The ſecond charge is, that by getting into his own poſſeſſion a large quantity of hops, to *reſell at an unreaſonable and extraordinary profit, and to prevent them coming to market*, he alſo endeavoured to raiſe the price. And my friend ſays, that in both theſe another ingredient muſt be found, namely, that ſuch was his intention throughout. Then it is a queſtion of fact indeed, but of fact coupled with intention.

Such is the caſe that is laid before you, and I think you have it before you truely. Gentlemen, on this ſubject the law being too clear to need any mention, my learned friend mentions that law. I need not, ſays he, ſay any thing of the law. It is too clear, and therefore, perhaps, *not with much conſiſtency*, he tells you, that Lord Coke ſaid ſo and ſo; and alſo refers you to Mr. Serjeant Hawkins's Pleas of the Crown, on this ſubject, a book, I admit, of high authority. Such is the law, he ſays, which I need not mention to you.—It is not uſual for my friend to introduce ſomething into a cauſe, which needs not be mentioned, but to produce ſome effect. He ſtated juſt as much of it as was neceſſary to meet the occaſion, and then proceeded to detail that evidence, I was going to ſay, which he afterwards proved at length. But, Gentlemen, recollect a little,

after

after you have compared the evidence with the opening, recollect a little, whether my friend's inſtructions were correct, for I am ſure he would not mention a word to you, that was not ſtated to him. Mr. W. he tells you, came down to Worceſter on the 29th of March. Being a dealer in hops, he was guilty of a great crime—of a crime of *deep malignity*, by coming to a place, where that commodity was ſold. I ſhould ſuppoſe it could excite no great ſurpriſe to find a perſon, who dealt in this commodity, going to the market, where it was ſold. He goes through the market openly, as a ſtranger there. The planters came round him, and are deſirous that he ſhould buy their hops. Now, obſerve the charges againſt him, and the conſiſtency of theſe charges. Mr. W. is charged *with ſpreading rumours and reports*, to prevent this commodity from coming to market, with an intent to enhance the price: ſo that this man of great penetration, as my friend deſcribes him, ſpreads abroad reports among the hop-planters, to induce them to keep back their commodity from the market, and ſo to raiſe the price. And what is the next charge againſt him? he is charged with getting into his own hands, by buying a large quantity of hops for the ſame purpoſe, to enhance the price. Am I ſtating this correctly? Can ſuch conduct be applied to any man of *great penetration, or of deep malignity?* Can you poſſibly believe that any man, who is not an ideot, a mere dreveller, is capable of two ſuch purpoſes at one and the ſame time? This Gentleman ſtands charged with coming into the Worceſter market, meeting all the perſons who had hops to ſell, which commodity he wiſhed to engroſs. And this man of deep penetrarion is deſcribed as telling them—I mean

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to get up all your commodity—I mean to raiſe the price of hops.—There is a ſcarcity among the brewers, and you may make of them £20 *per Cwt.* whereas now the price is only 12l. 10s. I tell you that, and I tell you I wiſh to buy up the commodity, conceiving that I may afterwards ſell it out at an extraordinary profit. Gentlemen, there are ſome things ſo glaringly inconſiſtent, that if they were proved, they could not be believed. As it is a queſtion of intention, can a man intend that, which he takes every poſſible means to prevent being executed? My friend puts it broadly to you, and with a confidence, that he will receive an anſwer in the affirmative. It is impoſſible you can be ſo duped. It is impoſſible, that you can ſo ſurrender your underſtandings to him, and believe that, which a man's actions directly contradict. Judge Mr. W. by his actions, and then ſee if you can make theſe two charges againſt him conſiſtent. It is ſtated, that this intention muſt pervade the whole, or otherwiſe he muſt be acquitted: and when he is acquitted, you are told the proſecutors will rejoice. Will they? Will the joy of Mr. W.'s acquittal be heard in the Borough? Will it rejoice thoſe gentlemen, in whoſe hands the market was? I doubt extremely the joy of the *London Factors*, at finding that other people may go to market to buy hops for ſupplying the public*. I doubt the proſecutors are too much intereſted in this buſineſs, to expreſs any joy at ſuch an event. This a queſtion not between Mr. W. and the

* To deſtroy the *freedom of trade*, one would imagine was the motive for this action; for which purpoſe, it is admirably calculated. Whether, however, even the verdict here given, can *totally* prevent perſons from *buying and ſelling* on a free principle, is yet to be determined.

 public,

public, but between him and the London factors. It is, whether he may go to market, and buy this commodity at a fair price, or whether the planters ſhall be obliged to ſell their commodity to the factors, who are to ſell it themſelves again to the brewers. This proſecution was commenced by *theſe public ſpirited beneficent gentlemen*, on the ground, that if Mr. W. had not gone into the market, this commodity would have come, at a lower price, into the hands of the ultimate conſumer. But you ſee it is a joke to ſuppoſe that. I would go back to London, from whence I ſee a gentleman has come, and I would aſk him whether it would have that effect there? If Mr. W. had not been a purchaſer, ſome other dealer would, and it would not have made a difference *of one ſingle farthing to the ultimate conſumer*. The firſt charge in the information, that of ſpreading rumours, &c. to enhance the price of hops, is a charge, as it ſeems to me, quite diſtinct from the other, and as it ſtrikes my mind, perfectly inconſiſtent with it.

Now, Gentlemen, the law my friend has thought neceſſary to lay before you, and one of the authorities from which he has taken it is, HAWKINS'S PLEAS OF THE CROWN. Now, I believe, that author gives another ingredient beſides theſe ſtated by my friend. My friend ſaid the paſſage was, "that all endeavours whatſoever to enhance the common price of any merchandize, and all kinds of practices, which have an apparent tendency thereto, whether by *ſpreading rumours*," &c. Now, the words of Hawkins are, "*ſpreading* FALSE *rumours*," &c. There is no authority that ſays, *ſpreading rumours* is an offence. Now, I aſk if there is a Connt in this information, that charges the defendant with

with *ſpreading falſe rumours* *? You muſt be convinced, not only that he ſpread the rumours, not only that by theſe rumours, he endeavoured to enhance the price of hops; not only that ſuch was the whole of his conduct, but that the rumours which he ſo ſpread were FALSE. I conceive the rumours ſo ſpread ſhould be untrue. Now, Gentlemen, it is alſo neceſſary that theſe rumours ſhould be proved in the manner in which they are laid in the information; and I take the freedom to ſay, that the evidence on that ſubject, if I have taken it correctly, does not prove the charge in the information. There are three Counts in the information, (the three firſt Counts) or three different ways in which the charge is made. The firſt is, that he wickedly intending to raiſe the price of hops, did *ſpread divers rumours and reports* with reſpect to the hops, by then and there openly and wickedly, in the preſence and hearing of hop-planters and dealers in hops, aſſerting, declaring, and publiſhing, that the then preſent ſtock of hops was

* Notwithſtanding the charge of the Judge, which forbad the Jury to intermeddle with the LAW; it is ſurpriſing that this *unanſwerable* argument ſhould have no weight with them. How could a conſtitutional Jury pronounce a perſon guilty, merely becauſe he *ſpread rumours and reports*, which neither the evidence nor the indictment authoriſe them to conſider falſe? Is a man to be puniſhed for *ſpreading rumours*, even if the conſequences of them happen to be injurious, when the converſation that gave riſe to them, the only part, in which he was an agent, WAS NOT FALSE, AND CONSEQUENTLY NOT CRIMINAL. Is this either law or juſtice? Where is there a law, or where is there a cuſtom, that makes it criminal, to recount ANY FACTS to any perſons? I appeal to the *Gentlemen of the Jury* for a ſolution to theſe queſtions.

nearly exhauſted, and that from that time there ſoon would be a ſcarcity of hops, and that before the hops then growing could be brought to market, the then preſent ſtock of hops would be exhauſted, with intent, &c. The ſecond Count is nearly the ſame as the firſt. Now, Gentlemen, do you recollect the evidence? It will depend not on what I recollect, but on what his Lordſhip will read to you from his notes. The evidence is not general as the charge laid in the information. But it is, that the ſtock of hops *in the hands of the brewers* was nearly exhauſted, and that very ſoon *the brewers, and not the public* in general, would be obliged to come to him, or the planters, and that hops would be at 20l. per hundred weight. If it is neceſſary to ſtate *rumours*, it is neceſſary to prove them as laid, and they have NOT been proved, as laid in the information. They are laid, that they were general, whereas the evidence is only qualified. It is, that the ſtock of hops in the hands of a particular deſcription of people only—the *brewers*, was nearly exhauſted. *Surely therefore there is an end of theſe two Counts.* In order to reach the party on either the one or other of them, the proof muſt be general, and correſpond with the charge as laid in the information—*Dolus verſatus in generalibus.* The next inquiry will be, whether if they have failed in proving the reports and rumours as laid in the two firſt Counts, they can reſort to the third, which I conceive to be *bad in law.* But on that you will receive his Lordſhip's directions*. I ſay I am relieved from that charge. I contend the two firſt Counts

* Unfortunately, the defendant was deprived of all aſſiſtance he might have derived from having the *law* on his ſide, by the learned Judge not allowing the Jury an opinion o nthe ſubject.

have not been proved, and the third I take to be *bad in law.* But even if that is not ſo, and ſuppoſe the directions you ſhall receive from his Lordſhip, are not ſuch, as I flatter myſelf they will be, ſtill you are to be convinced, that the reports, which Mr. W. ſpread were falſe. And you will recollect the evidence that has been given on that ſubject. You find there had been for four years preceding the year in which this tranſaction took place, namely, the preſent, there had been bad crops of hops. Ever ſince the year 1794, the hops had been bad. The year 1797, which was rather better than ſome of the others, even it, only produced three-fourths of a good crop. The years 1798 and 1799 had been conſiderably worſe. If then there has not been a good crop of hops in the country ſince the year 1794, there muſt of neceſſity be truth in the obſervation, that there was a ſcarcity in the commodity he was talking about. Mr. W. ſaid to the planters, that hops were ſcarce. Let the proſecutors ſhow that rumour, which he ſpread, was not true. It is neceſſary the rumour ſhould be *falſe*; and, therefore, it is neceſſary there ſhould be no ſcarcity at all. And can you convince yourſelves on the evidence in the teeth of theſe bad crops for ſo many years, that there was not a failure of that commodity? I do not aſk whether it was annihilated, whether there were no hops then to be found; but I aſk you in the fair language of common ſenſe, whether there was a ſcarcity of the commodity, and whether the alligation as laid in the information has been proved?

Gentlemen, having ſaid ſo much on the ſubject of theſe three Counts in the information, I come now to the ſecond charge, namely, that he had engroſſed, and got

into his hands conſiderable quantities of this commodity, *to ſell it again at an extraordinary price.*

Gentlemen, in this, therefore, my friend, accuſes him of the crime of engroſſing, and he accuſes him of that crime in theſe general terms, without being kind enough to point out to you or to me, what it is that conſtitutes that crime. And you are deſired to convict a man of a crime, which my friend has not condeſcended to explain *: that alſo I ſuppoſe is ſo clear, that it needs no explanation. And you are to find a man guilty of ſomething, that either has a legal meaning, or no meaning at all. Has he told you what the meaning of engroſſing is? But I muſt ſay ſomething upon it, I muſt ſay a word on it. You muſt be ſatisfied that *engroſſing* is a term of ſome comparative meaning, or if it be not a word of comparative meaning, it is ſtill more in my favour. If it does not ſignify a part of a commodity, it muſt mean the whole of it. Whether he has engroſſed the whole of the commodity.—I need not trifle with your underſtandings, becauſe it is clear, they have not proved that. That he bought a ſufficient quantity to conſtitute him an engroſſer, muſt be proved.—Now, Gentlemen, it is ſaid, that crimes ought to be ſo clearly and nicely deſcribed, that no doubt can be entertained about them by Gentlemen in your ſituation—by any Gentlemen in the ſituation of Juries. Has my friend told you, what in law conſtitutes an engroſſer?

* Would not the learned Gentleman, Mr. Plomer, have better diſcharged his duty, had he explained the nature of the charge laid in the indictment, inſtead of launching out into a pathetic, though totally irrelevant, harangue on the *high price of proviſions?*

But

But I muſt tell you what my caſe is, and upon which I am to contend, and with the firmeſt confidence for your verdict. To conſtitute an engroſſer, a very large quantity muſt be taken of that commodity, which is ſaid to have been engroſſed. If he had bought a pound, would he have engroſſed then? I chuſe to begin in this way. I muſt know where to ſtop, when he has taken enough to conſtitute him an engroſſer, provided he has taken it with the intent alledged. I will not lay down to you ſuch a doctrine as this; that if a man goes to market and buys hops for the common purpoſes of conſumption, but beyond an ordinary or uſual quantity, that this is engroſſing. There muſt be ſome clear, plain, intelligible rule, by which people in trade are to go. Unleſs you lay down a rule that is obvious to the underſtanding of every man, you involve every trader in difficulties. The line ſhould be ſo clearly drawn, that every trader may ſay to himſelf, "if I only buy ſo much, if I only go ſo far, I am ſafe, but if I go one inch farther—if I purchaſe one pocket more, I *am an engroſſer*." Suppoſe this rule is adopted.—If a man takes from the market ſuch a quantity, as not to leave enough for the common purpoſes of thoſe buyers who come after him, that this ſhould be conſidered to be engroſſing in the ſenſe of this information. If they do not adopt that rule, I conceive no fair criterion can be laid down by which the offence of engroſſing can be aſcertained and eſtabliſhed. If this is to be the rule, apply it to the caſe before you. If I underſtood my friend right, he ſaid, there were then 4000 pockets of hops on hand, and that this quantity, referred to the Worceſter market, without going abroad, without conſidering what quantity of this commodity might be found in other markets. Of theſe 4000 pockets, my friend has endeavoured to prove,

that Mr. W. bought 7 or 800, but one of the witneſſes ſaid, he bought up about a thouſand pockets in the whole. He went through a detail, *which it was fortunate did not ſet you all to ſleep.* One thouſand pockets out of four thouſand, makes one-fourth part of the exiſting commodity. And you have it in evidence, that it was quite common to go to market and buy two or three hundred pockets, and ſome had purchaſed five hundred, ſix hundred, and even ſeven hundred in a day, in ſome parts of the ſeaſon. And, therefore, in three days, there was nothing uncommon in purchaſing hops to the amount of a thouſand pockets. But as that is done, it is for you to conſider, whether that does or does not amount to my idea of the crime of engroſſing, if that idea is ſanctioned by my Lord afterwards. I ſay, their proof falls ſhort, in carrying it up to ſuch an amount as to conſtitute a crime. I contend Mr. W. has not taken enough to make him an engroſſer.

Gentlemen, there is a caſe which is reported in Cro. Car. 231, the name of which is, *the King againſt Maynard.* That was an information for engroſſing one hundred buſhels of ſalt, to ſell it again, contrary to the ſtatute of the 5th and 6th of Edw. VI. It was there ſaid, that ſalt was not within the ſtatute, and there is a cauſe cited in this caſe, *in which it was decided, that hops were not a victual within the ſtatute.* I am not uſing this caſe for that purpoſe, but for another, which I will preſently mention to you. It ſtates the great inconvenience that would enſue, if ſalt were prohibited to be engroſſed, for that it would extend to compel every individual to buy by the buſhel at the pits. It ſays, if I engroſs all the ſalt, with an intent to ſell it again at my own price, and at an unreaſonable price, I may

be

be indicted for an offence at common law. Now, Gentlemen, my friend has told you, you are proceeding by the rules of the common law. He has cited no caſe, as particularly applicable to this ſubject. But I ſhew you a caſe, in which a diſtinction is made between part of the commodity and the whole of it. It ſtates a diſtinction exiſting as to the quantity, between a proceeding at ſtatute law, and a proceeding at common law. And it ſays, but if a man engroſs all the ſalt to ſell it again at his own price, he may be indicted for an offence againſt the common law. Does not this afford a fair ground to ſay, that engroſſing means buying up all the commodity? But, if it does not mean that, he muſt take ſuch a quantity, as does not leave behind enough for the conſumption, that may be *neceſſary* for thoſe perſons, who afterwards go to market *. I do not therefore ſay this, without an authority in my favour. I then ſay on the authority of the caſe of the *King v. Goldeſborow*, 2 Bulſt. 317. that the quantity ſhould be mentioned. It is there ſtated, that the quantity engroſſed ought to appear. If Mr. W. is tried by the rule I mentioned to you, he will be acquitted. There were *four thouſand pockets* in the market, and he took *one thouſand*, which is *one-fourth of that*. Now, Gentlemen, I have ſtated that to be the quantity in the Worceſter market at that time. But the quantity produced in the country at large is *infinitely greater*. I have taken the commodity as referable to that market only, but if he had ſwept away the whole market of that day, there was much more to

* Beſides the Defendant's purchaſes, there were not 100 pockets ſold on any one of the days, on which he attended the market!

come

come to market after that day. It happened to me, in my way to this place, to meet with a book, giving a general hiſtory of hops for ſeveral years paſt. It contains the duty on hops, which is paid by the lb.; ſo that from thence you may collect the weight, though not the quality of the hops. It gives the quantity from the year 1787, down to the year 1798, being a period therefore of more than ten years. The quantity given by this ſtatement, which was made for the purpoſe of making a general ſurvey—the average produce through the county of Worceſter at large, is *twenty-three thouſand pockets per annum.* The quantity which Mr. W. took, when compared to this, is nothing, and what he took was no more, than one-fourth of what was then to be found in the Worceſter market. Why then, Gentlemen, he has not bought any unuſual quantity, he has not bought it in a clandeſtine manner. The whole world was witneſſes to what he was doing. He gives what appears from all the evidence, to be the fair and current price of the day. Some of the witneſſes were brought up, to ſhew that Mr. W. was ready to have given any price. But 12l. 10s. was the market price, *and I am not aware that he ever went beyond the market price at all.* He never at leaſt went beyond 13l. 6s. One of the witneſſes ſaid, he aſked him 13 guineas for his hops. But did Mr. W. give it? Did he leap at this price, in order to engroſs the commodity? Or did he act like a man, who was a fair *bonâ fide* purchaſer in the market, and who did not come to raiſe the commodity? The ſeller offers him his hops at 13 guineas. Mr. W. ſays, I will give you 13l. Mr. Taylor, the ſeller, then ſays, you ſhall have them for 13l. 6s., to which Mr. W. agreed. There was here actually a beating down, to 13l. 6s., from 13 guineas. At this price the commodity

was

was bought. Is that a fair bargain? Has he gone beyond the market price in any of the other inſtances? No. He comes forward like a man making a fair market, and actually gets the dealer down to the price at which he purchaſed them.—A man will ſometimes ſell for a lower price, when he cannot get a greater. Gentlemen, did Mr. W. in fact, produce the effect of increaſing —of raiſing the price. Did Mr. W. raiſe the price? *I conceive not* *. I am aware, that one or two of the witneſſes, in their great zeal and ferment, *ſwore that he did raiſe the price of hops.* But they were contradicted by other witneſſes, who were called. They ſtate, that no riſe of price was created by his coming there, that *no ſuch effect was produced on the market*, and that Mr. W. did not affect the market in any other way, than any other individual would have done, who came and purchaſed in the market. If, when this commodity comes to market, there are many ſellers and few buyers, then the commodity may be purchaſed ſomewhat lower; and *vice verſa*, when there are but few ſellers, and many buyers, the direct reverſe will take place. That circumſtance will, in ſome degree, tend to raiſe the price. But neither the one nor the other of theſe is a crime in a trading country. I do not know that a man may not go to market, and take advantage of the fair fluctuations of the market.

* The two charges againſt the Defendant were—*that he endeavoured to raiſe the price by rumours and by his purchaſes.* Whatever his commercial views might be, it has been already contended, that they were not matters of conſideration for a Britiſh court of law; as ſuch views are not illegal. As to his purchaſes, it was the duty of the Jury, without evidence to the contrary, to *conclude that they were innocent.* Whether there be *contrary* evidence, the public will determine.

Gentleme

Gentlemen, I am talking now as to the riſe of the price owing to the ſpreading of theſe rumours at the moment. Did the market continue to riſe, when Mr. W. was ſuppoſed to be executing ſome imaginary plan, in order to produce that effect? According to the evidence of ſome of the laſt witneſſes, the market ſtill continued to SINK DOWN. How does that affect this caſe? At firſt, one would have imagined, the preſent price of hops was owing to Mr. Waddington, that his *deep malignity* had effected the great ſcarcity of this commodity. But is it ſo explained? The cauſe of the preſent ſcarcity is the effect of the ſeaſons. *It is owing to the hand of the Almighty*, that hops are not good. The hops that had exiſted, *have been blaſted*, and in conſequence of that, the price has riſen. Riſen why? becauſe there is a ſcarcity. If there was an abundance in hand, the ſame failure of the crop could not have produced that. But couple them, and you may account for it. But accounting for it in this way, neither the one, nor the other of theſe applies to Mr. Waddington. Diſmiſs, therefore, from your minds, this amazing oppreſſion, which the poor are at preſent ſuffering becauſe they have not enough of theſe hops, tho' perhaps they might have had enough of them; and try this caſe fairly, and without prejudice; what then is the reſult of Mr. Waddington's conduct, to thoſe people, who are talked of as the ultimate conſumers of the commodity? I take it, to conſtitute this offence, the ultimate conſumer of the commodity muſt be injured. See then, whether or not, what Mr. Waddington has done, has in truth affected the ultimate conſumer? If he had not been there, what would have become of the commodity? Was it to be given to the poor? certainly not. Was it to be ſold immediately to the poor? certainly not. In the regular courſe of the trade, it would have been

ſold

ſold to the gentlemen factors, who ſend it to their cuſtomers, and my friend from London (Mr. Counſellor *S.*) will tell us how it paſſes through the Borough market, I believe it goes through the hands of a good number of people. How then does it much concern the ultimate conſumer, whether Mr. W. had bought theſe hops or not? But it may concern the factors, and it *muſt* affect them. If no man can go to market, and buy a conſiderable quantity of this commodity, he cannot buy any other commodity; for there is no diſtinction that I am aware of. If no man can buy a conſiderable quantity to ſell again, this commodity muſt be ſold by the perſon who produces it, to the retail-dealer, or to the conſumer. Though the retail-dealer may be ſaid to be the conſumer, yet that may be very doubtful. But all factors, if not retailers, muſt be *conſidered as engroſſers*. And you are called upon to ſay, whether this man is guilty within the law merely becauſe he has done this, becauſe he has bought a conſiderable quantity of hops. I aſk, what is to become of Mr. TIMOTHY BROWN and his houſe *, if you ſhould find the defendant guilty? Mr. Brown is very able, if he pleaſes, to carry on a criminal proſecution. What will become of this man and his houſe, and a number of other houſes, if the buying of a commodity to ſell it again is prohibited by law? That indeed makes this a queſtion of conſiderable importance to theſe parties, who throw the firſt ſtone. But it is not what concerns this or that houſe. I put it on a broader ground, whether there muſt not exiſt ſome middle men through whoſe hands the country at laſt may be ſupplied with this commodity, and whether it is Mr. Timothy Brown, or any body elſe, ſignifies nothing.

* Looking at Mr. Counſellor Scott, who is a partner.

I am

I am not well ſkilled on this ſubject, and therefore I muſt proceed implicitly on my inſtructions. But, I am told, this commodity is very precarious indeed. It is extremely doubtful in every ſtage of its progreſs. I am told it is a tender and dangerous cultivation. You know whether that is true or not. It is not enough to ſee a hop plantation look fair and blooming. There is a particular inſect which ſome times entirely deſtroys it. The winds of Heaven, and a thouſand other cauſes, till the laſt moment, may blaſt a crop of hops in one night, and completely diſappoint all the hopes of the planter. Hence the neceſſity there is to apply to ſome perſon, who, by his advances, may enable the planter to ſupport himſelf in the cultivation of this commodity. *And if the planter is prevented from entering into a contract with the hop-merchant, reſpecting his future crop, you may grub up every hop plantation in the country.* I am told the cultivation of hops is extremely expenſive; that the ground requires to be greatly manured and cleaned; and that the expence amounts to £.25 per acre. Whether I ſtate this accurately or not, I rejoice that you are competent judges*. If that be ſo, what is to be done, if this man is

* As many perſons may peruſe this trial, who are not ſufficiently acquainted with the nature and cultivation of hops, for their information, we ſhall make the following quotations from an excellent treatiſe on the ſubject, written by W. Randall. —

" The employ afforded by the culture of Hops t .he poor is very conſiderable; twenty thouſand families are hereby enabled to inure their children to uſeful labour, from five years old, in the plantations only, excluſive of the various articles neceſſary to maintain that cultivation. The proprietors are about ſeven thouſand, and the capital employed

is to be ſo fettered in his operations? It certainly was not intended, *that the country ſhould be ſaved by the deſtruction*

ployed in the Hop plantation, is about three millions ſterling."

" The whole progreſs in the article of the Hop is very hazardous, both as to the produce and to the profits; it is a plant of a very quick growth, and conſequently of a tender nature. It is alſo a favourite reſidence for an inſect called the *Long Tailed Fly*, which was not obſerved in the Hop countries until the year 1764. Its ravages are dreadful, often deſtroying plantations apparently the moſt flouriſhing; no plan has yet been brought into general practice to prevent its pernicious effects. This inſect has ſeldom failed to viſit the plantations once in two years, though rarely for two ſucceſſive ſeaſons. This may be ſeen by the duty table, which is higher or lower alternately; and when three good crops have been produced in ſucceſſive ſeaſons, it has ſometimes happened, that from elementary cauſes, the inſect has met with a ſudden death juſt at the moment when the Planter gave up the crop for loſt; the plants have then completely recovered themſelves, and produced plentifully."

" Allow me to aſk the commercial world how the Hop-planter is to ſell his commodity at the prices they were formerly ſold, particularly when they calculate the additional expences attached to the preſent times, and poſſeſſing the knowledge, *on proof*, of the ſhort crops produced of late years? Is it not notorious, that for theſe laſt ſeven years, land, labour, and every article of animal conſumption, has been advancing? And are not theſe the *eſſentials* from which the Hop-planter raiſes his Hops? I am at a loſs to account for the meaning of the affidavit of the dealers, publiſhed in the London newſpapers, where the hops are ſaid to have been ſold at a price unparal ed. If you take it in the literal meaning of the word, and put the price on a parallel with

the

ſtruction of the man that feeds it! It was not intended that he ſhould be put into this lottery, not for his own benefit, but which, like other lotteries, is ſupported for the benefit of the public; and the ultimate conſumer himſelf may, perhaps, be found in the ſituation of the hedge-ſparrow, that is eat up by the polecat.

If that be ſo, let us conſider a little whether the other part of this caſe be ſo clear as my friend repreſents it. My friend, near me, here ſuggeſts to me the particular neceſſity there is for theſe middle-men. It was, in evidence before you, that tho' Hops grow here, they do not grow every where. There are only certain parts of the kingdom which grow hops, and therefore there is the more neceſſity for theſe middle-men. Every individual cannot come from Yorkſhire, and other parts of England, where hops are not produced, to the London, or the Worceſter market, for a ſupply of their wants in this article. I ſtate this for the purpoſe of ſhewing, that there is an abſolute neceſſity that ſuch middle-men ſhould exiſt, and the law in no caſe prevents that, which is of abſolute neceſſity*.

Gentle-

the expences, even the price of £15. to £16. 16s. per cwt. paid laſt year to the ſpeculator, compared with the preſent expences of land, labour, and materials, it does not, in fact, exceed the £10. or £12. per cwt. paid for Hops many years ago. The difference of the nominal price was only in proportion to the nominal expence then incurred by the Hop-planter, ariſing from the circumſtances of the times. For it is needleſs to ſay £10. forty years ago, would purcha e more of every neceſſary of life, than £16. nomina! money of this day."

* Upon this ſubject, Mr. Randall thus expreſſes himſelf.—In the preſent age, and in our circumſtances, being at this moment the leading nation in Europe, and ſupporting many

Hop Gardens *Dr.*		In Account with Hop Planter *Cr.*	
1795.			
To 45,000 acres of land, average annual expences at £20. per acre, see page 24 Randall	£. 900,000	The duty, which being 10*s.* per cent. gives 164,000 cwt. of Hops at £.4 16*s.*	£. 787,200
Duty, as per Table, at 10*s.* per cwt.	82,000	Loss to be carried to next year's expences	358,800
Expences on crop, page 27, at £1. per cwt.	164,000		£.1,146,000
	£.1,146,000		
1796.			
Cost on land	900,000		
Duty	75,000	Sale of 150,000 cwt. at £4. 4*s.* 6*d.*	630,000
Expences on crop	150,000	Loss to be carried to next year's expences	871,740
Loss brought up from year 1795	358,800		£.1,501,740
Interest of the Loss	17,940		
	£.1,501,740		
1797.			
Cost on land	900,000		
Duty	157,000	Sale of 314,000 cwt. of Hops, at £4. 9*s.* 6*d.*	1,405,150
Expences on crop	314,000	Loss to be carried to next year's expences	881,177
Loss brought up from year 1796	871,740		£.2,286,327
Interest of Loss	43,587		
	£.2,286,327		
1798.			
Cost on land	900,000		
Duty	56,000	Sale of 112,000 cwt. of Hops, at £9. 7*s.*	1,047,200
Expences on crop	112,000	Loss to be carried to next year's expences	946,035
Loss brought up from year 1797	881,177		£.1,993,235
Interest of Loss	44,058		
	£.1,993,235		
1799.			
Cost on land	900,000		
Duty	73,000		
Expences on crop	146,000		
Extra expences beyond the former years 10 per cent. at least on the expences on land and crop	104,600	Sale of 146,000 cwt. of Hops, at £11. 8*s.* 6*d.*	1,668,050
Loss brought up from year 1798	946,035	Loss remaining to planters, taking the gross estimate for five years	548,886
Interest of Loss	47,301		£.2,216,936
	£.2,216,936		

N.B. Fractional parts omitted.

To face Page 40.

Gentlemen, it has been ſtated to you, that the law upon this ſubject is ſo exceedingly clear, that there can be no doubt upon it. There happened to be a meeting of the parliament of this kingdom, for the purpoſe of enquiring what the common law upon this ſubject was. Gentlemen, I hold in my hand a copy of a report taken from the journals of the Houſe of Commons, 12 *Geo.* 3. Such then were the doubts who were engroſſers, that the Houſe met on the ſubject, to aſcertain that which the common Law had not made ſufficiently clear. They enquired, and found a great many ſtatutes exiſting, which had been made in furtherance of the common law. The 5 & 6 of *Edw.* 6. *c.* 14. recites theſe words "Albeit" ſays the ſtatute, "divers good ſtatutes heretofore have been made againſt Foreſtallers of merchandizes and victuals, yet for that good laws and ſtatutes againſt regraters and engroſſers of the ſame things have not been heretofore ſufficiently made and provided, and alſo for

many others againſt the common enemy, by loans and ſubſidies of Britiſh gold, extracted from Britiſh genius, induſtry, and enterprize, our immediate ſafety ſeems to require the leſſer evil of ſpeculation, in order to counteract the greater evils of public diſtreſs and public danger. If any individual, or any aſſociation of Britons, contemplating the ſtate of national commerce, were to obſerve one part of their fellow ſubjects bearing hard on another, endangering the exiſtence of one of the faireſt articles produced in this country, and were they to ſtep forward, and by an extenſive commercial ſpeculation purſue the true method of relieving them, I would aſk even thoſe gentlemen whoſe profits are thus curtailed (that if the queſtion was abſtracted from the caſe) whether they would not be the firſt perſons to pay a juſt encomium to the enterpriſing ſpirit of ſuch an individual, or of ſuch an aſſociation?

that it hath not been perfectly known what perſon ſhould be taken for a Foreſtaller, Regrater, and Engroſſer (and who was ſo at common law) the ſaid ſtatutes have not taken good effect according to the minds of the makers thereof. Therefore be it enacted, and declared, &c. "That whatſoever perſon or perſons, that after the 1ſt day of May next coming, ſhall buy, or cauſe to be bought, any merchandize, victual, or any other thing whatſoever coming by land or by water, towards any market or fair to be ſold in the ſame, or coming toward any city, port, haven, creek, or road, of this realm, or Wales, from any parts beyond the ſea to be ſold, or make any bargain, contract, or promiſe, for the having or buying of the ſame, or any part thereof ſo coming as is aforeſaid, before the ſaid merchandize, victuals, or other things ſhall be in the market, fair, city, port, haven, creek, or road, ready to be ſold; or ſhall make any motion by word, letter, meſſage, or otherwiſe, to any perſon or perſons for the enhancing of the price, or dearer ſelling of any thing or things above mentioned, or elſe diſſuade, move, or ſtir, any perſon or perſons coming to the market, or the fair, to abſtain or forbear to bring or convey any of the things above rehearſed to any market, fair, city, port, haven, creek, or road, to be ſold, as is aforeſaid, ſhall be deemed taken, and adjudged a Foreſtaller." Doubts, therefore, did exiſt, and our anceſtors had been able to aſcertain this offence, and therefore enacted, what ſhould be conſidered the offence in future. Caſes aroſe on theſe ſtatutes, and when theſe caſes were decided, it was declared, *that hops were not among the number.** Theſe ſtatutes were

* Were the law laid down more perſpicuouſly, the Defendant might have been ſaved from this proſecution, and the commercial

were made in furtherance of the common law, and the ſtatutes themſelves declare, that *hops were not a commodity within the view of the Statute Law, and they declare what was the Common Law.* When theſe ſtatutes exiſted, hops were not the ſubject matter of engroſſing within theſe ſtatutes. And theſe ſtatutes were made for the purpoſe of collecting what was the common law prior to that period. They were followed up by other ſtatutes. The conſequence was, they were the ſubject of frequent diſcuſſions in the different courts of juſtice. That was not the only conſequence. There was another circumſtance of a very ſerious nature, and that was the anxiety of mind, and the expence, that was neceſſarily incurred by ſuch proſecutions. Gentlemen, as men get wiſer, the wiſdom of theſe laws began to be doubted. Some of our greateſt and wiſeſt ſtateſmen doubted whether they ought to exiſt any longer upon the Statute Book. In the reign of his preſent Majeſty, this tranſaction took place. A committee was appointed for the purpoſe of conſidering the ſtatutes, that then exiſted on this ſubject.—Reſolutions were entered into reſpecting Foreſtallers, and the committee were directed to report their opinion to the Houſe, which of theſe laws were fit to be continued, and which of them ought to be repealed. Their report was as follows: "Reſolved, that it is the opinion of this committee, that the ſeveral laws relating to Badgers, Engroſſers, Foreſtallers, and Regraters, by preventing the circulation of a free trade in corn and other proviſions, have been

commercial world from the fetters thrown upon it by this verdict. "To make any thing the *lex terræ*, there muſt be antient and *continual* uſage: no new practice can make a law." Shower's Parl. Caſes, 124.

the means of raiſing the price thereof in many parts of the kingdom*."

" Reſolved, That it is the opinion of this committee, that the Houſe be moved for leave to bring in a bill to remedy the acts occaſioned by the ſaid laws.

Ordered, *nemine contradicente*—That leave be given to bring in a bill, for removing the evils occaſioned by the Laws now in being, relating to Badgers, Engroſſers, Foreſtallers, and Regraters."

Gentlemen, my friend ſays, no doubt can be entertained by any man exiſting, nor ever could be concerning this offence. Let us ſee, who the legiſlators were, who doubted on this ſubject. They were certainly ſome of the wiſeſt and greateſt men in this country. Mr. Alderman Harley, was a man well known in the commercial world, and was a man capable of underſtanding this ſubject. Mr. Morton, Mr. Dyſon, Mr. Fuller, are perſons, whoſe names are all well known. I come now to a man of the moſt diſtinguiſhed talents, who ſpent his life in ſtudying the trade and commerce of this country, and underſtood it equal to any, whoſe works I have had an opportunity of reading—I mean, Mr. EDMUND BURKE. He alſo made a part of that committee. Mr. Cornwal, Mr. Gilbert, Sir George Saville, Mr. Dowdeſwell, Mr. Cooper, Mr. Lewis, Mr. Pownall, Mr. Dundas, Mr. Huſſey, and Mr. Wilbraham Bootle, all men of buſineſs. The next day, Lord Folkſtone was added to the committee. On mature deliberation given to this ſubject,

* How ſurpriſingly this truth demonſtrated by the preſent ſtate of the markets! Almoſt every buyer and ſeller now finds himſelf liable to a proſecution. Conſequently trade is parallized, and prices riſe prodigiouſly. This may be exemplified, " not by a treatiſe written in a cloſet."

they

they reported, among other things, that the price of corn was enhanced—by what? By the then preſent ſyſtem of laws relating to Foreſtallers and Engroſſers. It was, on mature deliberation, an act was paſſed, and now exiſts. (12 *Geo.* 3. *c.* 71). by which all the antecedent laws on that ſubject were done away, and done away by a preamble of this kind.——"Whereas it hath been found by experience, that the reſtraints laid by ſeveral ſtatutes upon the dealing in Corn, Meal, Flour, Cattle, and ſundry other ſorts of victuals, by preventing free trade in the ſaid commodities, have a tendency to diſcourage the growth, and to enhance the price of the ſame, which ſtatutes, if put in execution, would bring a great diſtreſs upon the inhabitants of many parts of this kingdom, and in particular upon thoſe of the cities of London and Weſtminſter; be it therefore enacted, &c.": then follow the enactments by which that act of parliament was to repeal, as I conceive all, that, which was antecedently an offence at common law*. They are all done away, becauſe they are contrary to that ſpirit of trade, which was the firſt thing to be taken care of in this kingdom, becauſe they promoted the very evils they were intended to remedy. That was their ten-

* Had the *common law* been ſufficient to convict any perſons of the *ſuppoſed* offences, the ſtatutes alluded to, *would never have been enacted.* And, ſuppoſing the *common law* ſufficient of itſelf to take cognizance of theſe offences, the repealing the ſtatutes only made the ſubject *more liable to proſecutions on this head*, BY TAKING AWAY THE RESTRICTIONS UPON THE DECISIONS OF THE COURTS, and committing *more than ever* to the diſcretion of the Judges. Beſides, was not *common law* ANTECEDENT to the FIRST CULTURE of Hops?

dency in the judgment of the firſt ſtateſmen in the country. My friend tells you, you are not to attend to the ſpeculative opinions of men, as to the wiſdom and policy of the law, *but to decide according to the law**. I ADMIT IT: But the opinions of ſome ſpeculative men deſerve ſome regard. I would aſk my friend, whether the ſpeculations of Dr. Adam Smith are, in his opinion, the ſubject of ridicule? I well know why my friend made that alluſion. I will not repeat it. It would not become me to ſtate the reaſon why he made that glance at Dr. Adam Smith. But when great names are to be referred to, and opinions are to be given on this ſubject, I have the opinions of the two firſt men in this kingdom—men oppoſed to each other, but agreeing in this point. I mean the opinions of Mr. Pitt and Mr. Fox; namely, that the trade of this country would be injured by the deſtruction of theſe middle-men. And if ſo, then, I conceive, it follows, that the law does not intend they ſhould be deſtroyed. But if it does, deſtroyed they muſt be.—*Fiat juſtitia, ruat cælum.* If all the hop-fields in the country are grubbed up, if the public are no longer to have this commodity, if laws are to be enacted, they muſt be obeyed. If theſe ſtatutes were declaratory of the common law, when the judges gave their opinion on theſe laws, *that hops are not a commodity within theſe ſtatutes*, and they meant to declare only who are offenders at *common law*, I conceive, theſe ſtatutes being now all repealed, there is no law exiſting on the ſubject. Gentlemen, if that be ſo, and if I am right in the points I have made, I need not, I think, detain you by reading over to you, and commenting to you on the evidence of each particular witneſs. You will have all the evidence

* Unfortunately, both the learned counſel were miſtaken.

of

of theſe witneſſes detailed to you by his lordſhip. You will have his lordſhip's directions on the points I have mentioned, and to them, with the greateſt reſpect, I refer you.

My friend ſuggeſts there was one point, which I have omitted. There was ſome difference of price between what was offered for ſome hops by Mr. Hodges, and what they were purchaſed at on the ſame day by Mr. W. You will obſerve, that Mr. Hodges meant to purchaſe them for ready money, and therefore, only offered a ready-money price. Whereas, Mr. W. contracted, that they ſhould not be delivered till the 26th of July. Some reliance ſeemed to be placed on this, though no reliance can fairly be put on it. "At preſent, the commodity is worth ſo much. I am not made of money." (They were flocking round him, and *urging him to buy, inſtead of him urging them to ſell*.)* "I cannot buy now, but I will buy at a future period, and I will advance the price according to what in my conception it ought to be, conſidering the time you have to keep your commodity." In proportion to the time they were to keep them, he advances the price he gives. It is not the market price of the day; I do not put it ſo. It is not ſo. "You ſhall deliver to me at a future period at an higher price; I contract to pay you more, as ſomething in the ſhape of intereſt for your money, and as an allowance for the loſs in weight." Now, ſuppoſe he buys an hundred weight of hops to day.—Suppoſe he buys the produce of one man, and they are to be delivered to day;

* Does this ſeem as if the Defendant was deſirous of making purchaſes in order to enhance the price? Is buying under theſe circumſtances criminal? The judgment of a candid public will be in favour of the Defendant.

if theſe hops ſtand, particularly in warm weather, they will not weigh ſo much. They loſe conſiderably in their weight. What is the conſequence? The quantity of hops being ſmaller, you muſt deliver more of them. You muſt offer a greater quantity of the commodity at a future period. That is the neceſſary conſequence. Mark this in your own minds, and give it that weight, which you think juſtly belongs to it. The buyer, by not being obliged to take the commodity till a future day, ſaves ſomething, and gets it more compact, and fit for uſe; but for the reaſon I have mentioned, the planter cannot part with it, but at an advanced price *.

Gentlemen, I was led back to this, by the recollection of my learned friend.

I have ſtated to you my ideas on this ſubject, and I have ſtated them undoubtedly with earneſtneſs, becauſe I feel on account of Mr. W. I feel to be called on to defend a man of this enormous crime—of a crime of this deep malignity. It is trying to a man, not much in the habits of making ſuch defences. The anxiety I feel, may have led me to take up more time than you may think neceſſary. And beſides, I feel for myſelf, that if he does indeed eſcape, he would have been acquitted more eaſily, had his counſel done his duty. I am bound to ſtate ſuch ſuggeſtions as I am able.

Having done that, let me requeſt of you, not to be drawn away by any thing my friend has laid before you. I am not on the popular ſide. He has the advantage ground — The public expectation is awake. They look to your verdict. This proſecution is ſuppoſed to be commenced for the *benefit of the whole*

* The hops purchaſed for *time*, had actually loſt in weight, when delivered, equal to 50s. per Cwt!——

kingdom.

kingdom. But who cares for my client? You have not before you that *conſpiracy* that was hinted at by my friend. Nor, (give me leave to ſay) will you ſuffer yourſelves to be ſeduced by any eloquence my friend may have diſplayed on the occaſion—and not even by that earneſtneſs to which he has been able to work himſelf up. I can conceive he may have brought himſelf to believe a part of that, which he ſtated to you with ſo much ability; but, I think, it is impoſſible that he can have worked up his mind to believe the whole of that which he has mixed in this proſecution. You will therefore correct theſe prejudices; and, as this is an UNUSUAL PROSECUTION, as this is a caſe which is not frequently heard of, you will give me leave to aſk, in the language of the Poet,

——— "Who is this new proſecutor,
"Awakes me all the enrolled penalties,
"Which have, like unſcoured armour, hung by the wall,
"So long, that nineteen zodiacks have gone round,
"And none of them been worn; and for a name,
"Now puts the drowſy and neglected act
"Freſhly on me?—'tis ſurely, for a name."

It is for the ſake of *popularity* that the proſecutors have rouſed theſe drowſy and neglected acts, and have endeavoured, by their counſel, to excite your indignation, and to fix it on the Gentleman, whom I repreſent.

Gentlemen, get rid of theſe prejudices; conſider the queſtion as it is in itſelf, ſtripped of every extraneous circumſtance. It is a queſtion of great and infinite importance to the public—to the intereſts of the commercial world, as well as to Mr. W. Conſider the effect of your verdict againſt him, in as much as puniſhment muſt follow.

low. But I muſt admit, that if he is guilty, your verdict muſt follow. But you will examine the ground I have mentioned, to ſhew you that middle men are not within the law, becauſe they are INDISPENSIBLY NECESSARY for the benefit and eaſe of the public.

Diſcard from your minds, all but the queſtion itſelf. Do not conſider the preſent times and ſcarcity at all. Forget them altogether, and aſk yourſelves, with reſpect to this particular inquiry alone, whether he is guilty of the charges laid againſt him in this information. The two charges, as they ſtrike my mind, are completely inconſiſtent with each other. *And if the one of them be true, the other cannot* *. And, if you cannot tell which of them is true, I hope and truſt, and I confeſs with confidence, that you will acquit the Defendant.

* The Jury either forgot this, or did not conceive themſelves competent to conſider it.——— Thus do we cloſe our comments, on this moſt excellent ſpeech : But if *man's free agency in trade* ſhould ſtill be doubted, it will oft times be reſorted to by the commercial world.

MR.

MR. JUSTICE LE BLANC'S CHARGE TO THE JURY.

Gentlemen of the Jury,

THIS is an information, which comes down for trial, in conſequence of the permiſſion of the Court of King's Bench, to file ſuch information againſt Samuel F. Waddington, containing ſeveral charges; but I think they may be divided into two claſſes: The one claſs contained in this information, charges him with an intention to enhance the price of hops, and for that purpoſe, that he ſpread divers rumours and reports with reſpect to hops, by aſſerting, in the preſence of a number of hop-planters, that the then preſent ſtock of hops was nearly exhauſted, that there would ſoon be a ſcarcity of hops; and that before the hops then growing could be brought to market, the then preſent ſtock of hops would be exhauſted, with intent to perſuade ſuch perſons not to ſend their hops to any market, and to abſtain from ſelling them, and thereby to enhance the price of hops.—That is the firſt charge which is contained in the three firſt Counts of the information. They charge him with an intention to enhance the price of hops, and uſing *certain means* to perſuade the hop-planters to keep back their hops from the market, for the purpoſe of enhancing the price.

The ſecond claſs of Counts contained in the information, charges him with an offence of a different nature, namely, with getting into his hands, by purchaſing, large quantities of hops, *to reſell for an unreaſonable and extraordinary profit, and by ſo doing, to enhance the price of hops.*

The

The object, therefore, throughout the whole of this information, is to charge him with this intention of enhancing the price of hops; and of doing it in the first instance, by using means with the planters, to prevail on them to keep back their hops from the market, and thereby to raise the price of the hops; and in the second case, by buying of different persons large quantities of hops, with an intention to reduce their quantity; and by so doing, to enhance the price of the commodity.

Gentlemen, the question for your determination is, whether in fact, Mr. W. has done what is charged on him by this information. *Whether these facts amount in point of law to an offence*, or what will be the consequence, supposing him to be found guilty, are matters *with which we at present have nothing to do* *. If all the facts do

* Our comments upon this extraordinary part of the charge, to which, in a great degree, the verdict of "Guilty" must be attributed, shall be preceded by a quotation from that spirited, that FIRST of political writers, JUNIUS, upon a similar charge given by Lord Mansfield ——

Junius's Letter to Lord Mansfield, 14th Nov. 1770.—

"But, my Lord, since you have laboured, and not unsuccessfully, to destroy the substance *of the trial*, why "should you suffer the form of the *verdict* to remain? Why "force twelve honest men, in palpable violation of their "oaths, to pronounce their fellow-subject a *guilty* man, "when, almost at the same moment, you forbid their inquiring into the ONLY CIRCUMSTANCE, which, in the eye "of law and reason, constitutes guilt——*the malignity or "innocence of his intentions.*—But I understand your Lordship—if you could succeed in making the trial by Jury "useless and ridiculous, you might then with greater safety "introduce a bill into parliament for enlarging the jurisdiction

do not in point of law conſtitute an offence, ſuppoſing your verdict to paſs againſt him, *Mr. W. by a proper application*

" diction of the court, and extending your favourite trial " by interrogatories to every queſtion, in which the life or " liberty of an Engliſhman is concerned.——Your charge " to the Jury in the proſecution againſt Almon and Wood- " fall, contradicts the higheſt legal authorities, as well as " the plaineſt dictates of reaſon. In Miller's cauſe, and " ſtill more expreſſly in that of Baldwin, you have proceeded " a ſtep farther, and groſsly contradicted yourſelf.—You " may know, perhaps, though I do not mean to inſult you, " by an appeal to your experience, that the language of " truth is uniform and conſiſtent. To depart from it " ſafely, requires memory and diſcretion. In the two laſt " trials, your charge to the Jury began as uſual, with aſſuring " them, *that they had nothing to do with the law*—that they " were to find the bare fact, and *not concern themſelves* about " the legal inferences drawn from it, or the degree of the " Defendant's guilt. Thus far you were inconſiſtent with " your former practice.—But how will you account for the " concluſion?—You told the Jury, that, "if after all, they " would take upon themſelves to determine the law, *they* " *might do it*, but they muſt be very ſure that they deter- " mined according to law; for it touched their conſciences, " and they acted at their peril."—If I underſtand your firſt " propoſition, you mean to affirm, that the Jury were not " competent judges of the law, in the criminal caſe of a " libel; that it did not fall within *their* juriſdiction; and that, " with reſpect to *them*, the malice or innocence of the De- " fendant's intentions, would be a queſtion *coram non judice*. " —But the ſecond propoſition clears away your own diffi- " culties, and reſtores the Jury to all their judicial capa- " cities. You make the competence of the court to depend " upon the legality of the deciſion. In the firſt inſtance you

" deny

plication will be releaſed from all puniſhment; becauſe if the facts ſtated on this information, do not conſtitute an offence

" deny the power abſolutely. In the ſecond, you admit the " power, provided it be legally exerciſed. Now, my Lord, " without pretending to reconcile the diſtinctions of Weſt- " minſter Hall, with the ſimple informations of common " ſenſe, or the integrity of fair argument, I ſhall be un- " derſtood by your Lordſhip, when I aſſert, that if a Jury, " or any other court of judicature (for jurors are judges) " have no right to enter into any cauſe or queſtion of law, " it ſignifies nothing whether their deciſion *be or be not* " *according to law*.—Their deciſion is, in itſelf, a mere nullity; " the parties are not bound to ſubmit to it;—and if the " Jury run any riſk of puniſhment, it is not for pronouncing " a corrupt or illegal verdict, *but for the illegality of med-* " *dling with a point on which they have no legal autho-* " *rity to decide*."

And Philo Junius to Zeno, 17th Oct. 1771, ſpeaking of Lord Mansfield, ſays—

" Nor do I think it neceſſary to ſay much to a man, who " had the daring confidence to ſay to a Jury, Gentlemen, " you are to bring in a verdict *guilty* or not *guilty*, but, " whether the Defendant be *guilty* or *innocent*, is not mat- " ter for *your* conſideration."—

Alſo, Junius in his preface ſays, that, " in the late proſecu- tions of the printers of my addreſs to a great perſonage, the Juries were never *fairly dealt with*. *Lord Chief Juſtice Mansfield*, conſcious that the paper in queſtion contained no treaſonable or libellous matter, and that the ſeveral parts of it, however painful to the King, or offenſive to his ſer- vants, were ſtrictly true, would fain have reſtricted the Jury to the finding of ſpecial facts, which, as to *guilty or not guilty*, were merely indifferent. This particular motive, combined with his general purpoſe to contract the power of Juries,

offence at the common law, no puniſhment can follow, though he is convicted of this offence. And therefore, at

Juries, will account for the charge he delivered in Woodfall's trial. He told the Jury, in ſo many words, that they had nothing to determine, except the fact of *printing and publiſhing*, and whether or no the *blanks or innuendoes* were properly filled up in the information; but that, whether the defendant had committed a *crime*, or not, was no matter of conſideration to twelve men, who yet, upon their oaths, were to pronounce their peer *guilty* or *not guilty*. When we hear ſuch nonſenſe delivered from the bench, and find it ſupported by a laboured train of ſophiſtry, which a plain underſtanding is unable to follow, and which an unlettered jury, however it may ſhock their reaſon, cannot be ſuppoſed qualified to refute, can it be wondered that they ſhould return a verdict, perplexed, abſurd, or imperfect? Lord Mansfield has not yet explained to the world why he accepted a verdict, which the court afterwards ſet aſide as illegal; and which, as it took no notice of the innuendoes, did not even correſpond with his own charge. If he had known his duty, he ſhould have ſent the Jury back. I ſpeak adviſedly, and am well aſſured, that no lawyer of character, in Weſtminſter Hall, will contradict me. To ſhew the falſehood of Lord Mansfield's doctrine, it is not neceſſary to enter into the merits of the paper which produced the trial.

If every line of it were treaſon, his charge to the jury would ſtill be *falſe, abſurd, illegal, and unconſtitutional.*

"If an honeſt man ſhould ſtill be inclined to leave the *conſtruction* of libels to the *court*, I would intreat him to conſider what a dreadful complication of hardſhips he impoſes upon his fellow ſubjects. In the firſt place, the proſecution commences by *information* of an officer of the crown, not by the regular conſtitutional mode of *indictment* before a grand jury. As the fact is uſually admitted, or in general

can

at preſent, it is neceſſary to diſmiſs from your conſideration a variety of thoſe topics, which have been urged, and

can eaſily be proved, the office of the petty jury is nugatory. The court then judges of the nature and extent of the offence, and determines, *ad arbitrium*, the *quantum* of the puniſhment, from a ſmall fine to a heavy one, to repeated whipping, to pillory, and unlimited impriſonment. Cutting off ears and noſes, might ſtill be inflicted by a reſolute judge; but I will be candid enough to ſuppoſe, that penalties, ſo apparently ſhocking to humanity, would not be hazarded in theſe times.

"In *all other criminal proſecutions, the jury decides upon the fact and the crime in one word*; and the court pronounces a *certain* ſentence, which is *the ſentence of the law, not of the judge*." (This preface was written in the year 1773.) "If Lord Mansfield's doctrine be received, the jury muſt either find a verdict of acquittal, contrary to evidence, (which I can conceive, might be done by very conſcientious men, rather than truſt a fellow creature to *Lord Mansfield's* mercy;) or they muſt leave to the court two offices, never but in this inſtance omitted, of finding guilty and awarding puniſhment. But, ſays this honeſt *Lord Chief Juſtice*, "if "the paper be not *criminal*, the defendant (though found "GUILTY by his peers) is in no danger, for he may move "the court in arreſt of judgment" True, my good Lord, but who is to determine upon the motion? Is not the court ſtill to decide, whether judgment ſhall be entered upon or not? And is not the defendant this way as effectually deprived of judgment by his peers, as if he were tried in a court of civil law, or in the chambers of the inquiſition?—It is you, my Lord, who then try the crime,—not the jury. As to the probable effect of the motion in arreſt of judgment, I ſhall only obſerve, that no reaſonable man would be ſo eager to poſſeſs himſelf of the invidious power of

inflicting

and very ingeniouſly urged by the learned counſel for the Defendant, with reſpect to the policy of the law, as well as with regard to the law itſelf. I ſhould think myſelf guilty of a neglect in the diſcharge of my duty, if I were to permit this Court to go from hence, entertaining the leaſt doubt on the ſubject, that by the common law this is a miſdemeanor. *There is no doubt, that to enhance the price of a commodity in the market, it is an offence at the common law.* And therefore it is, I think it my duty to ſtate, that at the ſame time it is not a thing for your conſideration on the preſent occaſion: but you are only to try whether he is guilty of the facts charged by the preſent information. I have little difficulty in ſtating, that if any perſon, for the purpoſe of enhancing the price of A COMMODITY in the market, ſpreads *various rumours and reports*:* or if he gets

inflicting puniſhment, *if he were not predetermined to make uſe of it.*

Again:—We are told, that Judge and Jury have a diſtinct office—that the Jury is to find the *fact*, and the Judge to deliver the *law*. *De jure reſpondent judices, de facto jurati.* The *dictum* is true, though not in the ſenſe given to it by Lord Mansfield. The Jury are undoubtedly to undetermine the fact, that is, whether the Defendant did or did not commit the crime charged againſt him." So far Junius.

After this, one remark only is neceſſary; viz. — that the impartial public who peruſe this trial, being under no ſuch interdict, will decide upon both *law* and *fact*.

* Pray, if a man relates any ſimple facts to his friends, and if it is conjectured that he does ſo, for the purpoſe of raiſing the price of a commodity, is he *guilty* of a *miſdemeanor?*—If this maxim is to be eſtabliſhed, a perſon who does the moſt innocent action in the world, *if it has an injurious termination*, may be ſuppoſed to have had a bad

 intention;

gets into his hands large quantities of that commodity, *to ſell it again at an unreaſonable and extraordinary price*, and thereby to enhance the price of the commodity, that is an offence at the common law. And, therefore, you will take it for granted it is ſuch, at the ſame time bearing in your minds, that you, *by finding Mr. W. guilty*, (if he is guilty on the evidence) *do not determine that he is guilty in law*, and liable to puniſhment, unleſs the law is againſt him. And that queſtion is open to be litigated, *if*

intention; ſo, found guilty, and puniſhed for the offence. But the Jury are ſworn to decide by the *evidence*, not by *ſuppoſitions* that enter into their own heads. In this caſe, however, it is not even *proved*, that the *innocent action* had an *evil conſequence*. It is neither *law* nor *equity* to *ſuppoſe* the intention EVIL.

Junius's Letter to Lord Mansfield, 21ſt January 1772.

"The diſcretion of an Engliſh judge is not of mere will and pleaſure; it is not arbitrary—it is not capricious; but, as that great lawyer (Coke, 4 Inſt. 41. 46) truly ſays,—"Diſcretion taken as it ought to be is, *diſcernere per legem quid ſit juſtum*.—If it be not directed by the right line of the law, it is a crooked cord, and appeareth to be unlawful." If diſcretion were arbitrary in the judge, he might introduce whatſoever novelties he thought proper. But ſays Lord Coke — "Novelties without warrant of precedents are not to be allowed; ſome certain rules are to be followed."

Next, 'tis ſaid, that if a perſon gets into his hands large quantities of a commodity, to ſell it again at an *unreaſonable* and *extraordinasy* price, and thereby to *enhance the price of a commodity, he is guilty of an offence at common law*.

This *might* be true, if he thus ſold it. But was this the Defendant's caſe—He is charged with buying

if there is any doubt what the law is.—Now, Gentlemen, that being the caſe, conſider what the facts are, to which you will have to apply the evidence, and which I ſhall ſtate to you as accurately as I can. In the firſt Count of this information, Mr. W. is charged with ſpreading reports with reſpect to hops, by aſſerting in the preſence of a number of hop-planters, and dealers in hops, that the preſent ſtock was nearly exhauſted, with intent to perſuade thoſe perſons not to bring their hops to market, and to abſtain from ſelling them, and thereby to enhance the price Nearly to the ſame effect is the charge in the ſecond Count. And the third Count is more general—that he attempted to perſuade divers perſons, who were dealers in hops, to keep certain quantities back from the market, and to abſtain from ſelling ſuch hops, for a long time, for the purpoſe of enhancing the price.—And the other Counts all charge him, with getting into his hands, by buying, large quantities of hops from different perſons, for the purpoſe *of ſelling them again for an unreaſonable and extraordinary profit*, and thereby to enhance the price—ſome of the Counts, naming the perſons from whom he purchaſed them, and the laſt Count, ſtating divers perſons, without naming particular perſons.

large quantities of hops, in order to ſell again at an *extraordinary* profit, and thus enhance the price of the commodity.

The buying a large quantity in itſelf can never be an offence: and, was there any evidence to countenance the charge of intending to ſell at an exorbitant profit? IT IS A FACT, that *one-third* of ſuch hops, were then ſold again *at a loſs!* Nay, ſuch was the alarm, when the Rule Niſi was granted—that the Defendant's ſtock, *depreciated forty per cent. below the coſt price!* and might have produced bankruptcy, even to a royal merchant.

In order to ſupport theſe charges, the firſt witneſs called, is William Penn, who is clerk to Mr. Hodges, a hop-merchant in Worceſter. He deſcribes himſelf as attending at the Worceſter market, and as having lived twelve months with Mr. Hodges, his maſter. He had lived three years in Worceſter before that. During the time he has lived with Mr. Hodges, unleſs when otherwiſe employed, he attends the market, which is weekly on a Saturday, and ſupplies the north—Liverpool, Mancheſter, and other conſiderable towns in the north, that do not grow hops. In March, 1800, hops fell from 11l. to 13l. per hunded.—That on the 29th of March the market was very flat, and there was every proſpect of the price being lower. The ſtock of hops at that time was very conſiderable, that they were more than ſufficient for the demand. He himſelf had never ſeen the defendant in Worceſter as a dealer, nor did he himſelf know that he dealt by any agents here. On the 29th of March, he ſaw him in the market. Market hours are between ten in the morning and two. After Mr. W. came into the market, he heard him ſay to a great number of perſons, that owing to the proſecution (not that which we are now trying in this city) that had been commenced againſt him, the price of hops was lower. But he could aſſure them from very high authority that proſecution was dropped*, and that therefore the price of hops would riſe. He ſaid the ſtock of hops in *the hands of the brewers* was nearly exhauſted, and that very ſoon they muſt come to him, or to the planters, and hops would be 20l. per hundred weight, and they might depend on his aſſiſtance to keep up the price. This is the ſubſtance of what he ſaid.

* It is too improbable that the defendant ſhould propogate ſuch a flagrant lie.

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He ſays, he heard him uſe *the ſame words ſeveral times. He does not pretend to uſe the words*, but he is able to ſay, that he uſed the ſame words or words to the ſame effect ſeveral times. That he ſaw ſeveral perſons offering him ſamples. He told them if they did not want the money, they had better not ſell, for that they would be a great deal dearer. But *ſome of them urging him to buy, he complied.* This was on Saturday the 29th of March. The next Saturday, when Mr. W. was not down, the ſamples were fewer in the market, and the planters not inclined to ſell. This is the firſt account on the firſt day. Gentlemen, your attention will be called to two other days, the 19th of April, and the 3d of May. On the 19th of April, which was three weeks after the 29th of March, and alſo a market day, he ſaw Mr. W. again about half after one o'clock. Before Mr. W. came, there were many planters and many ſamples, but they were not diſpoſed to ſell, till Mr. W. came; till that time very little was doing. He (Mr. W.) went into the warehouſe of Meſſrs. Yarranton and Phillips, and ſoon after the hop-planters followed him. He ſaid, he was ſorry that ſo many ſamples were reſerved for him. He was much obliged to them for the preference they had given him, but that he did *not come with an intention of buying*. He then got upon ſome ſacks in the warehouſe. The warehouſe was full. It may hold thirty or forty people. He then took out a paper, and ſaid that on that day he would purchaſe of thoſe who wanted the money, and were deſirous to ſell 200 pockets at 12l. 10s. a cwt.; and 200 pockets more, each ſucceeding fortnight, at an advance each fortnight, till the price ſhould riſe to 15l. per cwt. He ſaid, he did not know how much the advance was. He went into the counting-houſe, and deſired thoſe who were diſpoſed to ſell at any of theſe different dates, to follow him, and to write down

their names, the times at which they wiſhed to ſell, and the quantity. There was ſome other converſation, which he does not now recollect.

On croſs-examination he ſays, he himſelf has been for ſeven years in the way of the hop trade, but not regularly concerned in it, except for the laſt twelve months. Mr. Hodges he ſays is a hop-merchant, who buys in the market, and ſells again. He deſcribes the trade of a hop-merchant to be—to buy in large quantities in the market, and to ſell in large quantities again. He ſays, ſome of them buy to the amount of a thouſand pockets in a year, ſome more and ſome leſs.

With reſpect to the amount of the quantity bought in a year, whether it is one or two thouſand pockets it does not apply; for this is not a queſtion, whether Mr. W. has or has not done what others may have done. If what Mr. W. has done is wrong, though ten thouſand others had done the ſame, it does not exculpate him. He cannot vindicate himſelf againſt the charges brought againſt him, by ſhewing that the offence is common, and that many other perſons have been guilty of it.—With that one obſervation, I ſhall diſmiſs the point entirely, and proceed with the evidence*.

The witneſs ſays, that in January, they were from £15. to £16. and he believed approaching to 16 guineas; in the beginning of the month of February, they were about the ſame price. But, towards the latter end of that

* In the caſe Williams againſt Watkins, for foreſtalling cattle at Knightſbridge, Common Pleas, Michaelmas Term, 1797, Mr. Serjeant Le Blanc for the proſecution: We recollect that Chief Juſtice Eyre deciſively pronounced that ſuch cauſes were uſeleſs, becauſe it was obvious that the ſtatute of Edward 3. was erroneouſly omitted in the ſweeping repeal of 13 Geo. 3d.

month

month they had ſunk, he had heard (he was then on a journey). At the beginning of March, by which he means the 8th or the 10th, they were about 13 guineas. He ſays, the ſtock at that time was conſiderable, but the antecedent crops for ſome years back had not been abundant.—Hops are various and fluctuating. The witneſs then gives a reaſon, why hops were flat in the market at that time, and why they did not bring ſo great a price; becauſe though the ſeaſon before had not been good, yet, in conſequence of the laſt crop of barley being alſo bad, the demand for hops on that account was much leſs. He ſays, with reſpect to the ſums to be paid on what are called the progreſſive deliveries, which he deſcribes Mr. W. as having contracted for, theſe were to be according to the time at which they were delivered. If they were to be delivered at a more diſtant day, a greater ſum was to be paid for them. And that ſum was to be paid at the time the hops were delivered, and not when the contract was made.—

Now Gentlemen, with reſpect to this witneſs, you will obſerve that as far as his evidence goes, as to what he heard, he proves the expreſſions, which are alledged to have been uſed by Mr. W. to the hop-planters, in repreſenting himſelf at that time as not wiſhing to be a buyer, but telling the planters, who had hops to ſell, that the ſtock of hops *in the hands of the brewers* was nearly exhauſted, and telling them that hops might be higher, and that they might depend upon his aſſiſtance to keep up the price: and then ſaying, that if they did not want the money, they had better not ſell, but if they wanted the money, tho' he thought they had better not ſell, yet he would purchaſe ſome.

The next witneſs, was William Harwood, who ſaid, he was a grocer, living at Worceſter. He was in the

Hop-market on the 19th of April. The other witneſs William Penn ſpoke to the firſt time Mr. W. came down, which was on the 29th of March, and afterwards to the 19th of April. This witneſs ſpeaks only to the 19th of April. He ſays, that at half-paſt Twelve o'clock on that day, he went to the market, and that Mr. W. came at near one o'clock, that it was an extremely full market; that he never ſaw ſo large a one before. This was the ſecond market-day Mr. W. attended at Worceſter. He went into the warehouſe of Meſſrs. Phillips and Yarranton, and in a little time raiſed himſelf upon a ſack, and addreſſed the perſons, who were preſent, whom he believed to be hop-planters. Some of them he knew, and others he did not. He then gives an account of what he heard, and ſays that Mr. W. there ſaid to them, he was obliged to them for the compliment they had paid him, by ſo numerous an attendance—that he was afraid they would be diſappointed, as he did not come down that day to buy any hops at all, that he ſhould be very ſorry to diſappoint them, and he had hit upon a plan, which he hoped would meet their wiſhes. He ſaid he was willing to buy that day 200 pockets, at £12. 10s. per cwt. which he conceived to be the market price of the day, and 200 pockets each ſucceeding fortnight, for the ſpace of two months, at an advance of ten ſhillings, at the end of the firſt, ſecond and third fortnight, which would raiſe the price to £14. and at an advance of twenty ſhillings for the laſt fortnight, which would make the price £15. per cwt. He then ſays, he produced a paper writing in different columns, and requeſted the planters to write down their names, thoſe who were diſpoſed to ſell in their reſpective columns, and the quantities they meant to diſpoſe of. That ſeveral of the planters followed him into the adjoining room. He ſtrongly recommended to the

planters

planters to keep their hops as long as they could, for he ſaid he was fully ſatisfied that hops would be higher—He did not recollect, that he aſſigned any reaſon for his opinion—He deſcribes himſelf as hearing diſtinctly what paſſed. He is a grocer in this town, and alſo ſells hops, as a retail dealer—He buys ſometimes of hop-planters, and ſometimes of hop-merchants. We all know it is of the nature of their buſineſs to buy hops to ſell them again, in different parts of the country. He deſcribes the 19th of April as a large market, that Mr. W. ſpoke to ſeveral perſons before he went into the warehouſe of Meſſrs. Yarranton and Phillips, that he ſtood at the door of the warehouſe, and conſequently did not know what paſſed in the counting-houſe between Mr. W. and thoſe who were along with him. He did not know whether any hops were offered to Mr. W. that day. But with reſpect to the queſtion whether hops loſe in their weight by ſtanding, he underſtands that hops do loſe in their weight by ſtanding in warm weather, but that he never made the experiment.

The next witneſs was William Taylor, who ſays he is a grocer. (The laſt witneſs ſpoke to the 19th of April.) He ſays he was in the market on the 29th of March—he was in the market from ten to one. He had hops for ſale, but no Hop-merchants looked at them. Some people out of the country looked at them. He ſays he heard on that day Mr. W. ſay to the planters and himſelf, what the firſt witneſs ſwore he ſaid on the 29th of March, that hops would be dearer; that if they were determined to ſell, he would buy them—that he ſpoke this loud for all the ſpectators to hear—that the witneſs offered him his hops upon which Mr. W. aſked him if he was a planter. No, he ſaid, he was not. On that he ſaid he did not buy hops of dealers—he had better hold

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the hops, they would be dearer; but that if he was diſtreſſed for the money, he would buy them of him, and give him £13. per cwt. Mr. Taylor ſaid he wanted 13 guineas for them. Mr. W. ſaid he would give him £13. 6s. and he ſold them to him for that. He ſays Mr. W. adviſed the Planters and him to hold their hops, and by holding them, they would pay good intereſt for their money. *He applied to Mr. W. and Mr. W. did not apply to him for hops.* He at firſt offered him £13. for his hops, Mr. Taylor aſked 13 guineas—Mr. W. then offered him £13. 6s. and then in the end, the witneſs ſold them to him at that price. He took great pains to offer his hops to him as ſoon as he could.

The next witneſs *Thomas Weaver*, the maſter of the Hop-pole Inn*. He deſcribes Mr. W. as coming to him on the 28th of March, and aſking him if he could provide a dinner for him and a number of his friends the next day. He told him he could. He ſaid there might be eighty, ninety, or an hundred, but he would undertake at all events to pay Mr. Weaver for fifty. Afterwards the witneſs went into the market to give them notice of this dinner. He did not underſtand the exact deſcription of perſons Mr. W. meant. He went into the market, and acquainted the Gentlemen in the hop-trade with what Mr. W. had done. But afterwards, Mr. W. deſired that none but the Planters might be invited to dine with him, as he had ſomething particular to communicate to them. On this Mr. Weaver told him, he had invited the trade in general, and obſerves that he propoſed to Mr. W. to put a written paper over the door, to give notice that none but Planters ſhould be admitted. Mr. W. approved of it. And the witneſs's young man was directed to put up ſuch

* This reminds us of *Eſpions* under the old regime of France.

a paper,

a paper, that he did not chooſe to have any but Planters there; and accordingly, there was written on a paper in large letters "None but Planters admitted," and that was put over the door: Ninety-ſeven, ninety-five, and afterwards two others, making ninety-ſeven Planters ſat down to dinner. And Mr. W. paid the bill for them all the next day. He deſcribes himſelf as a good deal in the room, while he was putting the wine on the table. Mr. W. was in the chair. The firſt toaſt given was the King. Afterwards this toaſt was given "Hops at £20. per cwt." That was received with approbation, in the ſame manner as the former toaſt*. Mr. W. then had a converſation with the planters. He told them he would convince them, that by coming down to Worceſter, he was their friend, and that he had a greater wiſh to ſerve them, than to put any money into his own pocket. He would convince them, before he left the room, that they had not had a fair price for their hops. He ſaid, he had no doubt that hops would be at £20. and that, in a very ſhort time, the Brewers would be obliged to come either to him, or to ſome of his agents. The ſtock of hops was nearly exhauſted. *He ſeemed to know very well how long it would be, but the witneſs did not recollect it.* He recommended it to them to hold their hops, but if any gentleman were diſpoſed to ſell, he would buy them, and give £12. 10*s*. per cwt. but recommended it to them to hold them. Mr. W. ſaid, he liked the city of Worceſter ſo well, that he ſhould like to build a warehouſe, in which they might depoſit their hops, rather than that they ſhould be obliged to ſell them at a reduced price. Mr. W. told theſe gentlemen, that he, Mr. W. had followed the Kentiſh Planters, and

* The planters did not divine ſuch an action as "*the King v. Waddington.*"

had

had overtaken them on the road to the Borough market, going to ſell their hops to the factors—that from their want of money, they were obliged to ſell them, when they were convinced they would be at an higher price.—Upon this Mr. Chambers, who is a very conſiderable planter in Herefordſhire, gave Mr. Waddington as a toaſt, and invited him to come down to the enſuing election. *The witneſs was drinking a glaſs of wine at the time when he heard the particulars which he had related.*

Gentlemen, you will find this a material witneſs. He only ſpeaks to what Mr. W. ſaid on the 29th of March, but not to what paſſed on the other two days, the 19th of April, and the 3d of May. Some of the other witneſſes, who were in the ſituation in which he ſtood, cerainly do not recollect, or give any account of what Mr. W. ſaid. You have heard them ſay, from the ſituation in which they ſtood, they took no notice of it, and do not recollect any thing of it at the preſent time.

The next witneſs is *William Yarranton.*—He ſays he knows Mr. W. that he and his partner Mr. Phillips are employed to take in ſuch hops, as Mr. W. bought here, and he began to be connected with him about twelve months ago. He remembers Mr. W. being down on the 29th of March. He ſaw him on the Friday and Saturday. He ſtaid till the Sunday. He was a great deal with him. He believes he ſaw him on the Saturday morning. Mr. Phillips, he ſays, is his partner. Mr. W. told him he intended buying ſome hops on the market. He ſaid, he thought hops would be dearer; he gave him no other reaſon for their being dearer, than that he intended to be the buyer of ſome hops in the market. This was the converſation he had with Mr. Yarranton, and not the converſation he had in the market. To the beſt of his recollection, Mr. W. did not ſay any thing to him of what he intended to do to

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the market. This is all he recollects to have paſſed on the firſt viſit. On the 19th of April Mr. W. came down again. He had heard him *ſay, the ſtock of hops was ſmall, and nearly exhauſted.* In 1795, 1796, 1797, and 1798 the crops were all bad; there was not a full crop ſince the year 1794. In the year 1797 there were three-fourths of a crop He ſpoke of the country at large. The duty on hops, in 1797, was about 157,000l. He bought ſome hops that day in the market, but he cannot ſay, whether he bought any of theſe hops, after the time Mr. W. had addreſſed the people in the market. But either before or after, he cannot ſay poſitively which, but he bought 60 or 70 pockets in the courſe of that day. He does not recollect hearing any thing Mr. W. ſaid to the planters on that day. He was talking to them about hops. They offered him their hops, and he deſired them to ſtop a little; he was going to ſpeak to him (the witneſs). He heard him ſay they would be dearer. He does not recollect that he heard him adviſe the planters to ſell or not to ſell on that day. But his advice to him was to buy hops, for that they would be dearer. Mr. Yarranton ſays, he was at the dinner on the 29th of March. He recollects Mr. W. giving as a toaſt, "Hops at 20l. per hundred." But he cannot charge his memory with what he ſaid to the planters, except that he recollects he told them, *they had been loſers by planting hops for ſeveral years back* *. He (the witneſs) was talking with ſome perſon about ſome hops, and he did not pay much attention to what paſſed in the room. Mr. W. was propoſed as a toaſt by

* As it was not even hinted that any of theſe rumours were UNTRUE, it is not neceſſary for us to prove them. This rumour, however, is of infinite importance to the defendant; and the public will find the matter clearly aſcertained in Randall's Pamphlet on Hops, lately publiſhed.

Mr.

Mr. Chambers, and his health was drank by the company. And he ſays, he never heard what was alledged to be coupled with that toaſt, which has not been given by any one of the witneſſes, but only ſtated in the opening of the counſel. When Mr. W. went away, he underſtood from him he meant to come back in a fortnight or three weeks. And he underſtands his buſineſs there was to come to buy hops. Now, certainly, according to the evidence of the firſt witneſs, that was totally contrary to his avowed intention. According to the evidence of that perſon, Mr. W. did not want to buy hops. But he told thoſe who were anxious to ſell, that he would buy ſome of them.

Mr. Yarranton ſays, he ſaw Mr. W. when he came down on the 19th of April; it was near one o'clock, when he came to his warehouſe. He ſhook hands with him, and aſked him how the market was going. He ſaid heavily. He had ſeen him before that day, when he got out of his coach, when the witneſs told him the market was very heavy. When Mr. W. was in the counting-houſe, he told Mr. Yarranton he was going to buy hops. When he (the witneſs) went out of the counting-houſe, he ſays, that Mr. W. began to ſpeak to the planters. He had not told him (Mr. Yarranton) what he had done or ſaid. (A paper containing ſome contracts was here called for, and Mr. Pennethorne, clerk to Meſſrs Yarranton and Phillips, was examined reſpecting it). Mr. Yarranton then goes on with his account. He ſaw Mr. W. again on the 3d of May. He preſumed he came for the purpoſe of buying hops, and paying for the hops he had formerly bought; that Mr. W. was a buyer of hops, becauſe he had a written account with their clerk. He ſignified an opinion to the witneſs, *that hops would be dearer, and that was his ſole motive for his becoming*

becoming a buyer, and there was no other reaſon. The witneſs does not know that he heard from him, what quantity of hops he had on hand, or whether he had any more hops than thoſe he purchaſed at Worceſter. He was not ſo communicative to him. In the beginning of March laſt, he was in Mr. W. houſe in London. He was there ſelling hops, and he called on Mr. W. to aſk him how he did, and to ſee whether he was a buyer. He then told Mr. W. their market at Worceſter was low, and that the prices were lower than they had been, *and lower than the London market.* This was on the 10th and 12th of March. He went up to London to ſell 150 pockets of hops. Mr. W. at that time was not a buyer. When the witneſs told Mr. W. the market at Worceſter was falling, he did not learn from him then that he meant to come down to Worceſter. He did not learn he was coming down, till a few days before he came, and then he underſtood he was coming to buy hops. He ſays, he has been twenty years in the hop trade. The deficiency of the crop cannot be aſcertained from the amount of the duty, as of late years hop plantations have increaſed very much. In the year 1797 the duty amounted to 157,000l. though the crop that year was only three-fourths of a full crop, but in conſequence of the encreaſe of plantations, even a bad crop produces a greater duty, than a good crop would produce, if the plantations were not ſo extenſive. The laſt year the ſtock had encreaſed, becauſe the conſumption was much leſs, owing to the high price of malt, and the high price of hops, or *the ſtock in hand was very ſmall.* The price that Mr. W. gave for hops to come in at a future day, *was no more than the price of that day, becauſe there was a conſiderable loſs in weight.* If hops are to be delivered at the diſtance of ſix weeks, or two months, and are kept in warm weather, they will

loſe

loſe in weight from 3lb. to 7 or 8, and he had even known them loſe 10lb. in a pocket. He then deſcribes a pocket to be from an cwt. to an cwt. and an half. The proprietors of the hops keep them till the time of the delivery. They were weighed when delivered at the public ſcales, and at ſome parts of the ſeaſon HE HAS BOUGHT 500, 600, or 700 POCKETS IN A DAY, and ſome gentlemen MANY MORE. He deſcribes their markets to be greater between September and Chriſtmas, than at other times. On the 29th of March, Mr. Yarranton ſays, there might be 600 or 700 pockets to ſell in the market, either by ſample or in bulk; that is, the firſt day Mr. W. came there, there might be 6 or 700 pockets to be diſpoſed of, either in bulk or by ſample. On the 19th of April, he thinks there might be about the ſame quantity or more. On the 3d of May, there might be the ſame quantity or leſs, or more, though he thought there was hardly ſo much. He deſcribes the price as falling from the latter end of February to the latter end of May. And from that time to the preſent it has been riſing, and is now at 16l. or 17l. a hundred. *In his opinion Mr. W. increaſed the price of hops* NOT SO MUCH AS SOME *other perſons.* ONE OR TWO HOUSES WOULD ENHANCE THE PRICE MORE THAN WHAT HE DID. Towards the latter end of May there was a riſe in the price, becauſe there was then a ſuſpicion entertained reſpecting the enſuing crop. It was not ſo uſual to buy large quantities of hops near the end of the year. There was not at that time ſo much to purchaſe. HE DID NOT THINK THE PURCHASES MR. W. MADE, ENHANCED THE PRICE. Mr. Yarranton is of opinion that the planters THOUGHT THE WORSE of Mr. W. for the ſpeech he made them, *and that it made them more willing to ſell than to hold them.* I do not find that Mr. Yarranton recollects

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any part of Mr. W's. addreſs to the planters, or that he has given any account of it, ſo that we can only take his opinion *that Mr. W. did not enhance the price by* what he ſaid, which he could not now recollect. He then deſcribes 600 or 700 pockets as being the whole produce of the market; 13l. per cwt. is about 2s. 4d. per lb. Now when you attend to the quantity that is ſuppoſed to be loſt in weight by keeping, and compare it with the increaſe of price, they do not tally. The price of the number of pounds of hops which are loſt by ſtanding, ought to correſpond to the increaſe of the progreſſive price of hops. He is then aſked as to the time bargains, and which ſome of the witneſſes called progreſſive bargains, and he ſays, he never made ſuch a bargain, and never knew ſuch bargains made at Worceſter, till Mr. W. made them. He ſaid, people in the north made bargains for time, but when he came to be queſtioned more narrowly as to that, it appeared they only bought upon CREDIT. That does not make a bargain for TIME. This, I think, is the evidence of Mr. Yarranton.

The next witneſs is Thomas Pennethorne, clerk to Meſſrs. Yarranton and Phillips, and who was firſt called for the purpoſe of producing a paper, which was in his hands, but which he had delivered to Mr. Elſtob. That paper he received from Mr. Waddington, and was the paper in his hand, (and which has been deſcribed by ſeveral witneſſes) at the time when he was talking to the Planters. He deſcribes himſelf as clerk to the hop merchants, whom I have juſt mentioned, and attends the market for them; that is, for their houſe. On the 29th of March laſt, that is, on a Saturday, he ſaw Mr. W. who had come down into the market. He ſaw him talking to a number of planters, but did not hear what paſſed. On the 29th of March, he (Mr. W.) bought of the

planters himſelf 165 pockets of hops on that day. That number he bought himſelf, according to the account, which he handed over to the witneſs. Mr. W. alſo bought, on that day, of Yarranton and Phillips, 46 pockets of hops, which were their own, and likewiſe employed them to buy for him 81 pockets; making, in the whole, 292 pockets, bought on the 29th of March, either by himſelf, by Meſſrs. Yarranton and Phillips, or by their clerk. Theſe 292 pockets were the whole quantity purchaſed for Mr. W. on the 29th of March. Mr. Pennethorne then produces a paper in the hand-writing of Mr. W. which he ſays he wrote on, though there are ſome pencil marks not written by him. That paper, he ſaid, did not include the hops he purchaſed on the 19th of April, and which were to be delivered on that day, but only the hops that were then contracted for, to be delivered at a future day. It is not neceſſary, in this particular part, that I ſhould give you an account of the names. When it becomes material, I ſhall mention theſe names to you. On the 19th of April, Mr. W. enumerates 32 pockets as bought, and which were to be delivered on that day. He deſcribes theſe as bought on the 2d of May, the 19th of April, for preſent delivery, and that they were hops of a fair middling quality, and the price at which they were bought was the fair price of the market. But, beſides theſe hops for preſent delivery, Mr. W. contracted for other hops, to be delivered on future days, and the different prices were alſo diſtinctly deſcribed. And this was written at the head of the paper:—"We, "the underſigned, do hereby engage to ſell to Mr. Wad-"dington, mentioning his own name and Co. "to be delivered for them as under:" This paper was divided into three columns; at the head of each column was put the day of the month, at the diſtance of a fortnight,

night, when the hops were to be delivered, the quantity and quality. The next column was the 17th of May, the firſt being the 3d of May, the next column is the 31ſt of May, and the next is the 14th of June. In the firſt column, were the names of certain perſons, at £13. per cwt. ſo that the price was fixed according to the quality of the hops. At the top of it, was the ſum firſt propoſed; but ſome of the hops being of an inferior quality, ſome of them, of the 3d of May; are marked at a lower price per cwt. The hops in the next column, were to be delivered on the 17th of May. There were 47 pockets of hops contracted for, to be delivered at that time, all at the price of £13. 10*s*. except 13 pockets, which, being of inferior quality, are fixed at £12. And the column of the 31ſt of May, has at the head of it, £14. which is an increaſe of 10*s*. more, and theſe different perſons are all of them on the 31ſt of May. The laſt column is the 14th of June, at the head of which is £15. per cwt. which is an advance of £1. And that is a much larger quantity, I cannot exactly tell you the quantity, but it is to the amount of near 200 pockets, and though the price is at £15. yet there was one exception or two, where they were lower, in conſequence of their being of an inferior quality. Theſe were the contracts made at theſe progreſſive dates. On the 19th of April, he ſays, on that day Mr. W. alſo contracted for other hops, to be delivered on the 14th of June, which were not in that paper. But he had another paper, from which he ſtated the names of the perſons who ſold them, the price, and the quantity. The firſt paper he had from Mr. W. himſelf, and the ſecond from Mr. Warwick, his partner. And he received the whole of that quantity on Mr. W's account, and the whole amount of another quantity from other perſons.

Theſe are all the contracts on the 19th of April.

He then ſpoke to the contracts he made on the 3d of May, which was the third day Mr. W. was down at Worceſter. He then contracted for other quantities of hops, to be delivered on different days, namely on the 31ſt of May, and the 26th of July. On the firſt of theſe days, only one quantity was delivered. On the 26th of July, there was a much greater quantity, from different perſons; and one of them to the amount of 57 pockets. Gentlemen, the whole quantity will be added up if it is material. Some of theſe laſt hops, being of an inferior quality, were ſold at £12. and £13. Theſe are the different contracts that were made by Mr. W. and which were proved by Mr. Pennethorne. They were all weighed by the public weigher; moſt of them have been paid for by Mr. W. They were all delivered; ſome of them were delivered ſo late as Saturday laſt, and ſome of them are not yet paid for; and when the whole quantity purchaſed on three different days are added together, they amount to ſomewhat more than a thouſand pockets. Theſe are all the purchaſes that he made on the 29th of March, the 19th of April, and on the 3d of May. And he ſtates, that a quantity of them was delivered as late as laſt Saturday. He ſays, the market was extremely well ſupplied, and there was no ſcarcity. He judges, that on the 29th of March, there might be in the whole 5000 pockets, as the produce of Worceſterſhire and Herefordſhire: that is his judgment. He ſays, that, in his judgment, 5000 pockets are the total produce of all the hops in the two counties now mentioned. And he ſays that, for the purpoſe of ſhowing that Mr. W. on theſe three days, bought or contracted for 1000 pockets, out of 5000. He ſays that, on the 19th of April, he heard Mr. W. ſay, in the warehouſe, to the planters, that he

he was come down that day by invitation, to dine with the hop-planters, and not to buy hops. He then ſtood on a tub of hops. But if any of them were ſo preſſing to ſell, he would buy a few. He named the quantity he would buy on different days, and the price he would give on each day. This is his account. Mr. Yarranton ſaid, Mr. W's ſole viſits were to buy hops, and to buy hops only. This witneſs, Mr. Pennethorne, ſays, Mr. W. told the planters, *that he had come down, by invitation, to dine with them, and not to buy hops, but if they were ſo preſſing, he would buy a few*: and you ſee, from the evidence given, what that quantity was, and the proportion it bore to the whole produce of the two counties of Worceſter and Hereford. He told them he was not made of money, and that he could not buy all their hops. He had not money to buy hops, and that, if he bought, it muſt be upon credit. He then deſcribes the buſineſs of the hop-merchants to be, to buy large quantities of hops here, and to ſupply the orders of perſons in different parts of the country. He ſaw many of the hop-planters preſſing on Mr. W. who then got upon the ſacks, that he might be heard, and offered them what he would give. The planters did not aſk him a price for their hops, and propoſed to him to ſell at the price which he himſelf had fixed, and not at the price they had fixed. The ſamples were all produced at the time of the contracts made, and when they came to be delivered, ſome of the hops were rejected, as not proving the ſample. A leſs price was fixed on thoſe hops of inferior quality, and for which they were afterwards taken. *He then deſcribes the markets on the 17th and 24th of May, to be as cheap markets as any they had.* That is for the purpoſe, I ſuppoſe, in the firſt place, of ſhewing, that, after Mr. W. had made all his contracts, *the market*

ſtill continued as low as before; and that, therefore, it was not affected by his purchaſes. THAT IS SAID ON THE PART OF THE DEFENDANT*. On the other hand, they ſay, though the market on the 17th and 24th of May was flatter than on the 3d of May, when Mr. W. had made all his contracts, that was no anſwer at all. He deſcribes the unpromiſing ſtate of the hop-grounds, and ſtates a notorious fact, as I believe it is, that hops, about the end of May, began to put on a very unpromiſing appearance. That there were two, and ſometimes two or three murrain years together. He ſays, ſome of theſe hops, which Mr. W. purchaſed here, are in warehouſes in Worceſter, and ſome of them were ſent to London. He ſays, he heard Mr. W. tell the planters, *that he did not come there as a buyer, and that, if he muſt buy, it muſt be on credit.*

Gentlemen, you will of courſe attend to this part of the evidence, which ſhews the quantity of hops bought, the manner in which they were bought, and the account which Mr. W. gave on the occaſion.

The next witneſs is John Racſter. He ſays he is a planter, and ſold ſome hops to Mr. W. He had no more than the market price for them. He ſold him 13 pockets, at £13. per cwt. He would not have ſold them that day, unleſs he had got that money for them. He got no more than he thinks was the market price. And, on being aſked whether he did not ſay he had got more, he ſaid he did, but that it was only a joke, and that he did not get more; and that he did it for the purpoſe of laughing at them. Who would deal, he ſaid to them, with a Wor-

* The reader will obſerve, however, that this witneſs was called "on the part of the proſecution." No witneſſes were called by the defendant, becauſe that he had determined only to defend himſelf on the point of law.

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ceſter man, when he could ſell for £60. more to a Londoner. He ſays, he thought he had got no more for them than the market-price of that day. *He had been in the hop trade thirty-five years, and he ſays, he hardly ever knew a gentleman come from London to this market, that did not raiſe the market.* Probably, whenever any demand is made beyond the uſual demand, it will happen that the price will riſe That is the object of his evidence.

The next witneſs, is another hop-planter, William Green. He ſays, that on the 19th of April, or the 3d of May (it was fixed afterwards by Mr. Hodges, a hop-merchant, to have been the 3d of May), he offered Hodges a quantity of hops at £13. which he ſold to Mr. W. on the ſame day, at £15. He at firſt doubted whether it was on the 19th of April, or the 3d of May, that he had offered theſe hops to Hodges, but Mr. Hodges makes that matter quite clear that it was on the 3d of May they were offered to him at £13. and they were afterwards, on the ſame day, ſold to Mr. W. at £15. to be delivered on the 26th of July. That it was before Mr. W. came, that he offered theſe hops to Mr. Hodges. Green did not fix the price of £15. but it was in conſequence of Mr. W. himſelf having declared the prices, which he had fixed at the head of the columns of the paper, which we have before heard of, that Green offered the hops. The price, and the 26th of July, was fixed by Mr. Waddington, as his own price, and his own time. He paid £15. for thoſe hops, which, on the ſame morning, were offered to Mr. Hodges at £13. per cwt.

Mr. Hodges was next called, and ſays, that on the 3d of May laſt, Mr. Green offered him 9 pockets of hops at £13. That was at nine or ten o'clock in the morning. They are the ſame 9 pockets he afterwards ſold to Mr. W. becauſe Mr. Green told the witneſs he had no more

and indeed, Mr. Green himſelf ſaid they were the ſame 9 pockets.

The next witneſs is Archibald Duncan. He has been twenty-two years in the trade, and *was juſt returned* from a journey, to Worceſter, about that time. There was no ſcarcity all along in the market. He, at all times, found as many hops as he could advance money for. *Mr. Waddington's coming down, made the market advance: that advance was not leſs than £1. per cwt.** When he is aſked who proſecutes this information, he ſays he does not know. This is his opinion. He attributes the increaſe of the price of hops to Mr. W's coming down, and he deſcribes how they were *previous to the time* he did come down.

William Hooper is the laſt witneſs called. He ſays, he is a hop-merchant in Worceſter. He went on a journey a fortnight before the 29th of March, and left the market in a falling ſtate. When he returned on the 29th of March, which was the firſt time Mr. W. viſited Worceſter, he ſays, when he returned on the 29th, at 10 in the morning, he found the market very flat. *Hops roſe ten ſhillings* at leaſt per cwt.† which he attributes to Mr. W's coming down; and that, if he had not come down, in

* Never was there a leſs ſcrupulous witneſs than the preſent. He roundly ſwears to a *fact* which it was *impoſſible* for him to know, *as he happened to be in a diſtant country!*

It is truly ſurpriſing, that the jury ſhould not give more credit to *other reſpectable* witneſſes, who gave a contrary opinion, than to a man whoſe *zeal* and *heat* hurried him on, into a *palpable* abſurdity.

† Here is another hop-merchant! whoſe evidence is almoſt an *echo* of the laſt; except that he, with more modeſty, fixes the riſe of hops at 10s. per cwt. only; but he boldly ſays,

in his opinion, the market would have been much lower. *He did not know whether he had bought or not on that day.*

Gentlemen, this is the evidence in ſupport of this proſecution. On the part of the defendant no witneſſes have been called, and therefore you are to determine on this evidence, as it ſtands uncontradicted by any body, whether (no witneſs having been called) this evidence makes out to your ſatisfaction all or any of the charges in this information. I ſtated in the outſet the different charges it contains. And as to the firſt, namely, the intention of Mr. W. to enhance the price of hops, by perſuading the hop-planters to keep back their hops, and not to bring them to any market, thereby to enhance the price. That will depend on the evidence of thoſe witneſſes who have been called, who ſpeak to the language Mr. W. uſed at the time he came here. Theſe witneſſes, with reſpect to what they ſay, have not been contradicted by any witneſs called on the other ſide, and therefore you can hardly ſuppoſe, that what they have ſaid is a falſehood; more eſpecially, when what they heard, and what they have ſworn to, was ſaid in a public company, where a great number of other perſons were preſent, and where it is not unfair to preſume, that many of them were not ſo hoſtile to Mr. W. but that they could have been called, if what has been ſworn on the part of the proſecution could be contradicted; and, therefore, I think, it is fair to conclude in favour of thoſe perſons, that what they have ſaid may be taken to be true, becauſe what they have ſworn was ſaid in the preſence of a great number of perſons, and

ſays, that it was occaſioned by the defendant, although he *does not know whether he purchaſed hops or not.*

The public may judge upon the credit due to this moſt *perſpicuous* evidence!

none

none of them are called to contradict it. You have one, two, or three witneſſes, who do not recollect any thing Mr. W. ſaid at the dinner. Though Mr. Yarranton was in the room, yet he does not recollect what paſſed. You have Thomas Weaver, the maſter of the Hop-Pole Inn. While he was in the room, he has given you a diſtinct account of what paſſed there; and you have alſo the evidence of William Penn, clerk to Mr. Hodges, what he heard him ſay on the 29th of March, and the 19th of April. You likewiſe have the evidence of William Harwood, who gives an account of what he heard on the 19th of April, and of Mr. Taylor, as to what he ſaid on the 29th of March. Now, you will find, from the teſtimony of all theſe witneſſes, this evidence, and I think I need not go over it again, as they ſpeak clearly as to the general object of what Mr. W. ſaid to the planters. But it is for you to determine the amount of his advice to them, not to part with their hops. He gave to them his opinion ſtrongly, that hops would riſe, and adviſed them to keep their hops back, ſaying he did not come as a buyer; but as to thoſe who were very preſſing, and wanted their money, and wanted to ſell their hops for their money, he was willing to buy of them. Now, if that account is true, you will judge, whether that was or was not an endeavour on his part to enhance the price of hops, by perſuading the hop-planters to keep their hops back, and not to bring them to the market. And if, for want of money, they inſiſted on ſelling them at that time, he offered himſelf as a buyer. That is, otherwiſe he did not wiſh to become a buyer. That is the conſtruction on the part of the proſecution, which they put on it, and it is for you to ſay (you have heard that converſation when I went over the evidence) whether that is, or is not, a fair concluſion on his conduct, from the words

words he uſed. That, I think, Gentlemen, is the evidence of all the witneſſes who ſpoke particularly to the converſation in the market, and which I ſtated to you. You will then judge likewiſe from the evidence of Mr. Weaver, particularly the firſt day (29th of March), whether Mr. W. came here with a view to buy hops, as his agent underſtood he did, or whether he came for another purpoſe; and, as Mr. Yarranton's clerk underſtands, that he did not come then as a buyer, but had come by invitation to dine with the planters. Mr. Weaver, the maſter of the Hop-pole Inn, in his evidence, ſays, that Mr. W. applied to him to provide a dinner for a number of the hop-planters, whom he wiſhed to ſee, (and none of the hop-dealers,) becauſe he had ſomething particular to communicate to them; that Mr. W. dined with them, and, by his deſire, other perſons were not to come; and, with his approbation, a paper was put over the door, for the purpoſe. And, according to the account of what paſſed, he roſe and addreſſed the hop-planters after dinner, and ſaid, he would convince them, that, by coming to Worceſter, he was their friend, and that he had a greater wiſh to ſerve them, than to put money into his own pocket; and that he would convince them that they had not a fair price for their hops, and that he would convince them, hops would ſoon be £20. per cwt. Now this obſervation ariſes on this part of the evidence, if you believe Mr. Weaver, whether this was the conduct of a man intending to buy hops only; whether it was a natural conduct to perſuade the hop-planters they had been ſelling hops too cheap—that if they would hold their hops, they would be higher; and perſuading them to keep them. Does this conduct of his convince you that it was to perſuade the planters to keep them back? For what purpoſe

was

was it done? The information charges, it was done to enhance the price of hops. Can you ſuggeſt any other purpoſe, for which a gentleman, in the ſituation of Mr. W. was likely to addreſs a meeting of hop-planters? If you believe the witneſſes, that he took ſuch pains to convince the planters, that they had been ſelling their hops too cheap, and that they would ſhortly riſe, with any other view but to enhance the price of hops—if there was any other view, you will be good enough to put that conſtruction on his acts and words. If you think they merit a different conſtruction, and that his view was not that alledged in the information, you ought to acquit him; for unleſs it was done with a view to advance the price of hops, there is no other charge againſt him. It is for you to make out if he had any other view. I cannot ſuggeſt any other to you.

On this part of the caſe, an objection has been made on the part of Mr. W. Two Counts of the information ſtate, that Mr. W. to enhance the price of hops, had ſpread divers rumours and reports, by aſſerting, in the preſence of a number of hop-planters, and dealers in hops, *that the then preſent ſtock of hops was nearly exhauſted.* And Mr. Dauncey obſerved correctly, that the witneſſes ſaid, *the ſtock of hops in the hands of the brewers was nearly exhauſted.* And, therefore, that did not ſupport theſe counts, becauſe they charge, that Mr. W. had publiſhed, in the preſence of a number of hop-planters, and dealers in hops, a report, *that the ſtock of hops was nearly exhauſted,* GENERALLY, without ſaying *the ſtock of hops in the hands of the brewers.*

One of the witneſſes, on the part of the proſecution, did not uſe the term BREWERS, but ſaid he told THEM, the ſtock of hops was nearly exhauſted. *If you ſhall be of opinion that he did not uſe the words,* "*ſtock of hops,*" *without*

without qualifying it with the words, " in the hands of the brewers"——

Mr. Plumer, interrupting him.—The evidence of Mr. Yarranton is general, and agrees with the charge in the information.

Mr. J. Le Blanc, turning back to the evidence of Yarranton. —The agent of Mr. W. deſcribes it generally. I think it was the next time he was down, when he ſaid the ſtock of hops was nearly exhauſted. He ſaid nothing about the crop. He, Mr. Yarranton, gave an account of the crops.

You ſee, that in one of the accounts, the word BREWERS is not mentioned. However, if you think he did not ſay them *generally*, you may ſay that, and you will ſee what the effect will be. I think the *tenor, the words*, of that count*, are not neceſſary to be proved. *When Mr. Yarranton's evidence on this point, and that of the other witneſſes, are coupled together, it does ſupport the Count, charging him with ſpreading reports to enhance the price of hops, by repreſenting in the preſence of a number of hop-planters, the ſtock of hops was nearly exhauſted*†.

Theſe

* Does his Lordſhip mean to ſay, that it is not neceſſary to prove the words of the indictment? In the then Serjeant Rooke's *profound* ſpeech on the proſecution of Winterbotham, he contended, " *that it is not neceſſary to prove the exact words.*" " Is this," ſays Winterbotham, " the language of a lawyer, or is it not language at which a lawyer muſt bluſh? If it is not neceſſary to prove the EXACT words, why lay the words at all?"

† It is requeſted, that the reader will be particularly attentive to this point. The defendant is accuſed of ſpreading *rumours* that the *ſtock of hops* was nearly exhauſted. He appeals to you, Gentlemen of the Jury, to inform him upon

Theſe, Gentlemen, I think are all the obſervations on the evidence which ariſe on the firſt ſet of counts, and on the firſt charge brought againſt him.

The NEXT CHARGE brought againſt him is, that he himſelf did, by buying, get into his hands large quantities of hops, for the purpoſe of ſelling them again at an unreaſonable and extraordinary profit, thereby to enhance the price of hops.

Mr. DAUNCEY—My Lord, Mr. W's converſation with Mr. Yarranton was a private converſation, whereas the rumours and reports imputed to him by the information are alledged to have been ſpread in a public converſation.

Mr. J. LE BLANC—You are very right, I believe. I ſhall read that part of Mr. Yarranton's evidence over again. Mr. W. told him he intended buying ſome hops in the market. He ſaid he thought hops would be dearer, &c. &c. This was a converſation which he had with

upon what ground you found him *guilty* of this charge? One witneſs only, ſaid ſomething that countenanced the charge; but it was plain he ſaid this by miſtake. Beſides, it was in a *private* converſation, whereas the indictment ſtates it to have been in a *public* one: *He*, however, was contradicted by all the other witneſſes. Had you only, for a moment, conſulted your underſtandings, you would have ſeen how improbable, nay, impoſſible, it was for the defendant to aſſert, without a qualification, that the ſtock of hops "was nearly exhauſted:" A falſehood that muſt have been detected by every one to whom he addreſſed himſelf. Even the learned judge doubted whether *the evidence did not ſupport this Count*. What then could it be, that induced you to pronounce him guilty upon this Count? But you found him *guilty* upon EVERY charge that was brought againſt him.

him

him (Mr. Yarranton), and not the converſation which he held in the market.

Gentlemen, it will be for you to conſider the evidence, and to ſay upon the evidence, whether, when Mr. W. was addreſſing the hop-planters, he ſpoke of hops generally as being nearly exhauſted, becauſe if he did, it will amount to the charge brought againſt him. That will confine itſelf to that particular count. *Whether that count is good or bad, we have nothing to do.* The other counts are differently conſtituted. If you are of opinion, that he never ſaid generally to the planters, that the ſtock of hops was nearly exhauſted, perhaps you will obſerve that in the verdict that you will give.

The next charge againſt the Defendant is, that of getting into his hands, by buying, large quantities of hops, (ſtating the names of the different perſons from whom he had purchaſed them) with the intent to ſell the ſame again *at an unreaſonable and extraordinary profit*—thereby, likewiſe to enhance the price of hops. The caſe ſtated, on the part of the proſecution was this—that it was the firſt object of Mr. W. to come down, after being informed by his agent in London of the ſinking market, in order, if poſſible, to perſuade the hop-planters, not to bring their hops to market, but to keep them back. That was his intention. But to ſuch as for want of money were obliged to ſell, Mr. W. offered himſelf as a purchaſer. He wiſhed to buy as large a quantity as he could, and which were to be afterwards delivered on different days. His firſt object therefore was, that they ſhould keep them back, but if he could not prevail on them to do that, his intention then was to get as large a quantity as he could into his own hands, in order to keep them out of the market.—Now you will ſee whether the evidence, which I have ſtated to you, ſupports that part of the caſe or not.

And

And you will recollect the converſation, that has been ſpoken to, and his conſequent propoſal at the different times, when he came down to Worceſter—when he came down to buy theſe hops. Some of the counts name the names of particular perſons. In the courſe of my ſumming up, perhaps, ſome gentleman has taken the pains to ſelect the names mentioned in theſe counts, from thoſe which are not mentioned, becauſe if any thing particular ariſes on this, it is right the defendant ſhould have the benefit of it.

Mr. PLUMER.—Every one of the 37 names have been proved except ſome little variation in one or two.

Mr. WIGLEY—I have marked them all diſtinctly into the different days to which they belong. There are names mentioned according to ſome of the counts of the information. There is a number of perſons to the amount in all of upwards of thirty and ſomething ſhort of the 37 names mentioned. But theſe thirty odd do not certainly embrace the quantity of hops ſaid to be purchaſed.

Mr. J. LE BLANC.—With regard to the ſubſequent charge of getting into his hands large quantities of hops, *for the purpoſe of ſelling the ſame again at an unreaſonable and extraordinary profit*, and thereby enhancing the price —this charge is proved from the evidence principally of the clerk of Mr. Yarranton*.—You obſerved the extent to which it has been proved. But many of the names, which were mentioned by him are not names ſtated in the

* The Defendant truſts, that it was not meant to be ſaid, that there was any *evidence* to prove that he intended *to ſell the hops again at an unreaſonable profit?* From the evidence, it muſt be ſeen, that this charge was unfounded. But, could not the Jury obſerve this? or were they liſtening to the judge's diſcuſſion, of a *ſlight verbal error* in the indictment?

different

different counts of the information. It is not neceſſary that all the names ſhould be ſtated in the information provided it does appear from the names which are ſtated, that he has purchaſed a large quantity of hops, with a view of ſelling them again, and of *making an unreaſonable profit*, and that his view in ſo doing, was to enhance the price of hops. And though the names of particular perſons are not mentioned in all the counts of the information, yet where he has bought hops, and to the amount of theſe quantities of all the perſons named in the information, the purchaſing of other quantities of other perſons, and to a greater extent, will be evidence to ſhew the intent with which the quantity, charged in the information to have been purchaſed, was purchaſed. The charge is, that he bought certain large quantities of hops of A, B, C, D, E, F, and G. It is proved that he bought large quantities of A, B, C, D, E, F, and G, and alſo of M, N, O, P, and Q, which names of M, N, O, P, and Q, are not ſtated in the information. Now, if you are convinced, that he bought this large quantity of thoſe that are named in the information, *with a view to get an unreaſonable and extraordinary profit to himſelf*, you will take into conſideration the quantity he bought of other perſons, to ſhew the intention with which he bought the quantity of the perſons whoſe names are found in the information. You being convinced, as you muſt, that he bought certain large quantities of perſons whoſe names are mentioned in the information; it is competent to you to take into your conſideration, the quantity which he bought of other perſons, to ſhew the intent with which he made his purchaſes of thoſe, whoſe names are mentioned in the information.

Now, he did buy of the ſeveral perſons named in it to a certain amount, on the 29th of March, to the amount of 88 pockets; on the 19th of April to the amount of

252 pockets; and on the 3d of May to the amount of 19 pockets. That is the total number of pockets he bought on the three different days, of thoſe whoſe names are to be found in the information—359 pockets.

Mr. PLUMER.—The total amount of Mr. W's. purchaſes, of thoſe whoſe names are in the information, and alſo of thoſe, whoſe names *are not to be found there*, is 1065 pockets—I know that.

Mr. J. LE BLANC.—The total number of pockets purchaſed of thoſe, whoſe names are in the information, is ; but it is proved that he bought of other perſons alſo, and that the whole amount of his purchaſes exceeds 1000 pockets, which *is one-fifth of the whole produce of Worceſterſhire and Herefordſhire**. Now the only queſtion on this part of the caſe is, whether he did not buy theſe hops to ſell them again for an unreaſonable and extraordinary profit. An extraodinary profit on theſe hops, as ſtated in this information, muſt be greater than otherwiſe, in the fair courſe of dealing, would have been the profit of dealing, buying in the uſual way, and leaving every perſon to be a fair purchaſer in the market. His original object in view, if you believe the evidence, was by his purchaſes, to prevent them to bring their hops to market to ſell at the preſent current price of the day.

* Mr. Pennethorne gave it as his opinion, that there were that day, viz. the 29th of March, about 5000 pockets in the market *unſold* of ſuch plantation: *This*, however, was *not proved*; it was only *an opinion*. The amount of the Defendant's purchaſes, viz. about 1000 pockets, upon the three days on which he attended the market, were barely the 23d part of the year's growth of that country, or about the 150th PART OF THAT OF ALL ENGLAND!! This error of his Lordſhip was certainly *moſt injurious* to the Defendant. Indeed, Mr. Dauncey had otherwiſe explained this matter.

And

And if they could be ſo prevented, if that could be done, it muſt neceſſarily raiſe the price in the hands of every other holder. You will ſay, therefore, whether his view in purchaſing this quantity from them, when he could not control the market, was, or was not, with *a view to his profit and to making a profit greater than he ought to do**, and greater than was reaſonable he ſhould do. And if ſo, whether his ultimate end was to enhance the price of the commodity. That ſeems to follow, I was going to ſay, almoſt as a neceſſary conſequence, that if theſe purchaſes of Mr. W. greatly diminiſhed the quantity in the market, the conſequence neceſſarily follows—it neceſſarily raiſes the price of the commodity.

That is the nature of this charge, and this is the evidence in ſupport of it. You have heard the obſervations I have made—I DO NOT SAY A WORD ON THE LAW OF THE CASE.—You muſt take it at preſent as ſettled, that it is an offence, and if it is not, no injurious conſequences can follow from it.

You will ſay, whether the facts ſupport theſe charges, or either of them, and according as you ſhall be of opinion that

* His Lordſhip concludes by telling the Jury, that the point for their conſideration was, whether the purchaſes *were made with a view to an unreaſonable profit?* A matter which required little conſideration—As, conſiſtently with their oaths, they could not but acquit the Defendant on this head, being ſworn to decide according to the *evidence*, and there being no evidence that at all countenanced this part of the charge. Upon THIS, however, reſts the grand and pervading accuſation—"*Of intending to enhance the price of hops.*"

The Jury found the Defendant GUILTY of this charge alſo. THE PUBLIC MUST JUDGE OF THEM.

Thus

that they support them, or either of them or not, you will either acquit him, or find him guilty of the whole charge, or of a part of the charge.

The Jury retired near half an hour, and then pronounced the Defendant GUILTY.

Mr. J. LE BLANC.—Guilty, GENERALLY, Gentlemen?

Foreman.—YES, my Lord.

Thus ended this trial, so interesting to commercial men, and the news of the verdict was conveyed by EXPRESS to Chelmsford, and enabled the Lord Chief Justice, (thus said the diurnal prints) to inform the Essex Grand Jury, that a person had been found guilty upon every count, by a most respectable jury of the *county*. His Lordship could not have recollected, that such a jury was denied the Defendant, altho' on oath he declared, that he could not have a fair trial by one of the city of Worcester. It is sufficient to add, that he has entered into recognizances, to the enormous amount of £12,000, for his appearance in Michaelmas Term; but, convinced that the usages of commerce have been respected by him, he is wholly indifferent as to the "DERNIER RESORT."

THE END.

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